



# Journal of the House

State of Indiana

114th General Assembly

Second Regular Session

Fourteenth Meeting Day

Tuesday Morning


January 31, 2006

The House convened at 10:00 a.m. with Speaker Brian C. Bosma in the Chair.

The Pledge of Allegiance to the Flag was led by Representative Robert J. Bischoff.

The Speaker ordered the roll of the House to be called:

Aguilera	Koch
Austin	Kromkowski
Avery	Kuzman
Ayres	L. Lawson
Bardon	Lehe
Bauer	Leonard
Behning	J. Lutz
Bell	Mahern
Bischoff	Mays
Borders	McClain
Borror	Messer
C. Bottorff	Micon
Bright	Moses
C. Brown	Murphy
T. Brown	Neese
Buck	Noe
Budak	Orentlicher
Buell	Oxley
Burton	Pelath
Cheney	Pflum
Cherry	Pierce
Cochran	Pond
Crawford	Porter
Crooks 	Reske
Crouch	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson	Saunders
Dobis	J. Smith
Dodge	V. Smith
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Tyler
Gutwein	Ulmer
E. Harris	VanHaften
T. Harris	Walorski
Heim	Welch
Hinkle	Whetstone
Hoffman	Wolkins
Hoy	Woodruff
Kersey	Yount
Klinker	Mr. Speaker

Roll Call 110: 99 present; 1 excused. The Speaker announced a quorum in attendance. [NOTE:  indicates those who were excused.]

The members stood for a moment of silence in memory of Coretta Scott King, who died yesterday.

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 1:50 p.m. with the Speaker in the Chair.

Representative Crooks, who had been excused, was present.

## HOUSE BILLS ON SECOND READING

### House Joint Resolution 3

Representative Messer called down House Joint Resolution 3 for second reading. The joint resolution was read a second time by title.

#### HOUSE MOTION (Amendment 3-1)

Mr. Speaker: I move that House Joint Resolution 3 be amended to read as follows:

Page 1, line 7, after "principal" insert "**and interest**".

Page 1, strike line 8.

Page 1, line 9, strike "diminished; and the income thereof shall".

Page 1, line 9, strike "inviolably".

Page 1, line 10, after "to" insert "**fund kindergarten, pre-kindergarten, and other**".

Page 1, line 11, after "programs" insert ",".

Page 1, line 11, delete "as provided by law,".

Page 1, line 11, delete "purpose" and insert "purpose".

Page 1, delete line 12.

(Reference is to HJR 3 as printed January 27, 2006.)

DAY

Motion prevailed. The joint resolution was ordered engrossed.

### House Bill 1008

Representative Borror called down House Bill 1008 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1008-12)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 50, line 25, after "(g)" insert "**The authority shall submit a draft of the request for proposals to the budget committee for its review before the issuance by the authority of the request for proposals to potential offerors.**".

(Reference is to HB 1008 as printed January 26, 2006.)

HEIM

Motion prevailed.

#### HOUSE MOTION (Amendment 1008-40)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 35, line 2, after "IC 8-15-2-14(j)," insert "**and subject to section 8 of this chapter,**".

Page 35, line 19, delete "User" and insert "**Subject to section 8 of this chapter, user**".

Page 36, line 2, delete "A" and insert "**Subject to section 8 of this chapter, a**".

Page 36, between lines 38 and 39, begin a new paragraph and insert:

**"Sec. 8. (a) As used in this section, "passenger motor vehicle" means:**

- (1) a passenger motor vehicle (as defined in IC 9-13-2-123); or  
 (2) a truck (as defined in IC 9-13-2-188) that has a declared gross weight of not more than seven thousand (7,000) pounds;

that is owned or leased by an individual and is not used for commercial purposes.

(b) The user fees charged by the operator of the Indiana Toll Road under a public-private agreement for the use of the Indiana Toll Road by passenger motor vehicles that are owned or leased by individuals who reside in a county traversed by the Indiana Toll Road may not exceed the user fees for passenger motor vehicles that were in effect January 1, 2006.

(c) The operator of the Indiana Toll Road under a public-private agreement shall take the steps necessary to implement this section. The bureau of motor vehicles and other state agencies shall cooperate with the operator as necessary to implement this section.

(d) This section expires July 1, 2016."

(Reference is to HB 1008 as printed January 26, 2006.)

NEESE

On the motion of Representative Ulmer, the previous question was called. Upon request of Representatives Espich and Neese, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 111: yeas 91, nays 8. Motion prevailed.

#### HOUSE MOTION (Amendment 1008-11)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning transportation and to make an appropriation.

Page 1, between lines 7 and 8, begin a new paragraph and insert: "SECTION 2. IC 4-4-11-15.6, AS ADDED BY P.L.214-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15.6. In addition to the powers listed in section 15 of this chapter, the authority may:

- (1) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire obligations issued by any entity authorized to acquire, finance, construct, or lease capital improvements under IC 5-1-17; ~~and~~
- (2) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire any obligations issued by the northwest Indiana regional development authority established by IC 36-7.5-2-1; ~~and~~
- (3) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire any obligations issued by the northeast Indiana regional development authority established by IC 36-7.6-2-1."

Page 7, between lines 9 and 10, begin a new paragraph and insert:

"Sec. 7. Money in the fund may be used for a purpose other than a purpose that is specified in this chapter on the effective date of this chapter only if the general assembly authorizes the purpose in a statute approved by at least seventy-five percent (75%) of the members of the house of representatives and by at least seventy-five percent (75%) of the members of the senate."

Page 13, line 22, after "pay" insert ":

(1) for the calendar years 2006 and 2007,".

Page 13, line 24, beginning with "(1)", begin a new line double block indented.

Page 13, line 24, strike "(1)" and insert "(A)".

Page 13, line 25, beginning with "(2)", begin a new line double block indented.

Page 13, line 25, strike "(2)" and insert "(B)".

Page 13, line 28, after "IC 36-7.5-4-1" delete ". A payment required by this".

Page 13, line 29, delete "subsection may be made".

Page 13, line 30, after "IC 8-15.5-11" delete "." and insert "; and

(2) for each of the calendar years 2008 through 2015, an amount equal to ten million dollars (\$10,000,000) to the development authority fund established under IC 36-7.5-4-1

from the toll road fund in accordance with IC 8-15.5-11."

Page 13, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 10. IC 8-15-2-14.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14.8. (a) As used in this section, "development authority" refers to the northeast Indiana regional development authority established by IC 36-7.6-2-1.

(b) Subject to the trust agreement of any outstanding bonds, the authority shall distribute to the development authority in calendar year 2007 and calendar year 2008 from revenues accruing to the authority from the toll road at least five million dollars (\$5,000,000) and not more than ten million dollars (\$10,000,000) each year. The amount of the distribution for a year shall be determined by the authority. The amount to be distributed each year shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of 2007 and 2008. The amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.6-4-1.

(c) Subject to the trust agreement for any outstanding bonds and subject to the requirements of subsection (d), after 2008 the authority may distribute to the development authority amounts from revenues accruing to the authority from the toll road. The amount of any distribution for a year shall be determined by the authority. Any amounts to be distributed for the year under this subsection shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of the year. Any amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.6-4-1.

(d) A distribution may be made by the authority to the development authority under subsection (c) only after the budget committee has reviewed the development authority's comprehensive strategic development plan under IC 36-7.6-3-4 and the director of the office of management and budget has approved the comprehensive strategic development plan.

(e) If the Indiana Toll Road is sold or leased before January 1, 2008 (other than a lease to the department), and the sale or lease agreement does not require the purchaser or lessee to continue making the distributions required by subsection (b), the treasurer of state shall pay:

(1) for the calendar year 2007, an amount equal to the greater of zero (0) or the result of:

(A) ten million dollars (\$10,000,000); minus

(B) any amounts transferred to the development authority under this section before the sale or lease;

to the development authority fund established under IC 36-7.6-4-1 from the state general fund or from the toll road fund in accordance with IC 8-15.5-11; and

(2) for each of the calendar years 2008 through 2016, an amount equal to ten million dollars (\$10,000,000) to the development authority fund established under IC 36-7.6-4-1 from the toll road fund in accordance with IC 8-15.5-11.

(f) Amounts distributed or paid to the development authority under this section may be used for any purpose of the development authority authorized under IC 36-7.6.

(g) The amounts necessary to make any distributions or payments required or authorized by this section are appropriated."

Page 39, line 38, after ";" delete "and".

Page 39, between lines 38 and 39, begin a new line block indented and insert:

"(3) with respect to the northeast Indiana regional development authority:

(A) all or part of a distribution described in IC 8-15-2-14.8; and

(B) the acquisition, construction, renovation, improvement, and equipping of a project (as defined in IC 36-7.6-1); and"

Page 39, line 39, delete "(3)" and insert "(4)".

Page 40, line 12, delete "and".

Page 40, between lines 12 and 13, begin a new line double block

indented and insert:

"(C) the northeast Indiana regional development authority established in IC 36-7.6-2; and".

Page 40, line 13, delete "(C)" and insert "(D)".

Page 41, line 36, delete "and" and insert "(3) the northeast Indiana regional development authority; and".

Page 41, line 37, delete "(3)" and insert "(4)".

Page 42, between lines 34 and 35, begin a new paragraph and insert:

"(d) Before July 1, 2006, and every year thereafter, the northeast Indiana regional development authority may submit to the authority a request for a distribution from the eligible project account. The request must include a list of the eligible projects that:

(1) are to be carried out by the northeast Indiana regional development authority during the state fiscal year beginning on July 1 of that year; and

(2) require a distribution of money from the eligible project account.

The list must include the amount of distributions requested for each project during the fiscal year, the total amount of distributions requested for all projects during the fiscal year, and the proposed schedule of distributions for each project. The authority may approve, modify and approve, or reject a request made under this section. The authority shall make any distributions in the amounts and in accordance with the schedule as approved by the authority and shall pay the distributions from the eligible project account to the northeast Indiana regional development authority for deposit in the general account of the development authority fund established under IC 36-7.6-4-1."

Page 42, line 35, delete "(d)" and insert "(e)".

Page 43, between lines 13 and 14, begin a new paragraph and insert:

"(e) Any use or withdrawal of money from the toll road fund, which would result in the inability of the treasurer of state to distribute the money required to be distributed to the northwest Indiana regional development authority pursuant to IC 8-15-2-14.7 or to the northeast Indiana regional development authority pursuant to IC 8-15-2-14.8, must be made by an act passed by at least seventy-five percent (75%) of the members of the house of representatives and by at least seventy-five percent (75%) of the members of the senate, and the use or withdrawal may not occur until the bill is enacted and becomes effective.

Sec. 8. Money in the fund may be used for a purpose other than a purpose that is specified in this chapter on the effective date of this chapter only if the general assembly authorizes the purpose in a statute approved by at least seventy-five percent (75%) of the members of the house of representatives and by at least seventy-five percent (75%) of the members of the senate."

Page 77, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 42. IC 36-7.6 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

## ARTICLE 7.6. NORTHEAST INDIANA REGIONAL DEVELOPMENT AUTHORITY

### Chapter 1. Definitions

Sec. 1. Except as otherwise provided, the definitions in this chapter apply throughout this article.

Sec. 2. "Airport authority" refers to an airport authority established under IC 8-22-3.

Sec. 3. "Airport authority project" means a project that can be financed with the proceeds of bonds issued by an airport authority under IC 8-22-3.

Sec. 4. "Bonds" means bonds, notes, or other evidences of indebtedness issued by the development authority.

Sec. 5. "Development authority" refers to the northeast Indiana regional development authority established by IC 36-7.6-2-1.

Sec. 6. "Development board" refers to the governing body appointed under IC 36-7.6-2-3.

Sec. 7. "Economic development project" means an economic development project described in IC 6-3.5-7-13.1(c).

Sec. 8. "Eligible county" refers to the following counties:

(1) A county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).

(2) A county having a population of more than thirty-four thousand nine hundred (34,900) but less than thirty-four thousand nine hundred fifty (34,950).

(3) A county having a population of more than thirty-three thousand two hundred (33,200) but less than thirty-three thousand six hundred (33,600).

Sec. 9. "Eligible political subdivision" means the following:

(1) An airport authority.

(2) A regional transportation authority.

Sec. 10. "Project" means an airport authority project, an economic development project, or a regional transportation authority project.

Sec. 11. "Regional transportation authority" means a regional transportation authority established under IC 36-9-3-2.

Sec. 12. "Regional transportation authority project" means a project that can be financed with the proceeds of bonds issued by a regional transportation authority under IC 36-9-3.

### Chapter 2. Development Authority and Board

Sec. 1. The northeast Indiana regional development authority is established as a separate body corporate and politic to carry out the purposes of this article by:

(1) acquiring, constructing, equipping, owning, leasing, and financing projects and facilities for lease to or for the benefit of eligible political subdivisions under this article; and

(2) funding and developing airport authority projects and services, regional transportation authority projects and services, and economic development projects in the eligible counties.

Sec. 2. The development authority may carry out its powers and duties under this article in an eligible county.

Sec. 3. (a) The development authority is governed by the development board appointed under this section.

(b) The development board is composed of the following nine (9) members:

(1) Three (3) members appointed by the governor.

(2) The following members from a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000):

(A) One (1) member appointed by the county executive.

(B) One (1) member appointed by county fiscal body.

(3) The following members from a county having a population of more than thirty-four thousand nine hundred (34,900) but less than thirty-four thousand nine hundred fifty (34,950):

(A) One (1) member appointed by the county executive.

(B) One (1) member appointed by the county fiscal body.

(4) The following members from a county having a population of more than thirty-three thousand two hundred (33,200) but less than thirty-three thousand six hundred (33,600):

(A) One (1) member appointed by the county executive.

(B) One (1) member appointed by the county fiscal body.

(c) A member appointed to the development board must have knowledge of and at least five (5) years professional work experience in at least one (1) of the following:

(1) Air transportation.

(2) Regional transportation development.

(3) Regional economic development.

(4) Business or finance.

(d) An individual or entity required to make an appointment under subsection (b) must make the initial appointment before September 1, 2006. If an individual or entity does not make an initial appointment under subsection (b) before September 1, 2006, the governor shall instead make the initial appointment.

Sec. 4. (a) Except as provided in subsection (b) for the initial appointments to the development board, a member appointed to the development board serves a four (4) year term. However, a member serves at the pleasure of the appointing authority. A member may be reappointed to subsequent terms.

(b) The terms of the initial members appointed to the development board are as follows:

- (1) Each initial member appointed by the governor shall serve a term of four (4) years.
- (2) The initial member appointed under section 3(b)(2)(A) of this chapter shall serve a term of three (3) years.
- (3) The initial member appointed under section 3(b)(3)(A) of this chapter shall serve a term of three (3) years.
- (4) The initial member appointed under section 3(b)(2)(B) of this chapter shall serve a term of two (2) years.
- (5) The initial member appointed under section 3(b)(3)(B) of this chapter shall serve a term of two (2) years.

(c) If a vacancy occurs on the development board, the appointing authority that made the initial appointment shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) Each member appointed to the development board, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(e) A member appointed to the development board is not entitled to receive any compensation for performance of the member's duties. However, a member is entitled to a per diem from the development authority for the member's participation in development board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

Sec. 5. (a) The governor shall designate a member of the development board appointed by the governor to serve as chair of the development board until January 2013. At the election under subsection (b) in 2013 and each year thereafter, the chair shall be elected from among the members of the development board.

(b) In January of each year, the development board shall hold an organizational meeting at which the development board shall elect the following officers from the members of the development board:

- (1) After December 31, 2012, a chair.
- (2) A vice chair.
- (3) A secretary-treasurer.

(c) Not more than two (2) members from any particular county may serve as an officer described in subsection (a) or elected under subsection (b). The affirmative vote of at least five (5) members of the development board is necessary to elect an officer under subsection (b).

(d) An officer elected under subsection (b) serves from the date of the officer's election until the officer's successor is elected and qualified.

Sec. 6. (a) The development board shall meet at least quarterly.

(b) The chair of the development board or any two (2) members of the development board may call a special meeting of the development board.

(c) Five (5) members of the development board constitute a quorum.

(d) The affirmative votes of at least five (5) members of the development board are necessary to authorize any action of the development authority.

(e) Notwithstanding any other provision of this article, the minimum of five (5) affirmative votes required under subsection (d) to take any of the following actions before January 1, 2013, must include the affirmative vote of the member designated by the governor to serve as the chair of the board:

- (1) Making loans, loan guarantees, or grants or providing any other funding or financial assistance for projects.
- (2) Acquiring or condemning property.
- (3) Entering into contracts.
- (4) Employing an executive director or any consultants or technical experts.
- (5) Issuing bonds or entering into a lease of a project.

Sec. 7. The development board may adopt the bylaws and rules that the development board considers necessary for the proper conduct of the development board's duties and the safeguarding of the development authority's funds and property.

Sec. 8. (a) The development authority must comply with IC 5-16-7 (common construction wage), IC 5-22 (public purchasing), IC 36-1-12 (public work projects), and any applicable federal bidding statutes and regulations. An eligible political subdivision that receives a loan, a grant, or other financial assistance from the development authority or enters into a lease with the development authority must comply with applicable federal, state, and local public purchasing and bidding laws and regulations. However, a purchasing agency (as defined in IC 5-22-2-25) of an eligible political subdivision may:

- (1) assign or sell a lease for property to the development authority; or
- (2) enter into a lease for property with the development authority;

at any price and under any other terms and conditions as may be determined by the eligible political subdivision and the development authority. However, before making an assignment or sale of a lease or entering into a lease under this section that would otherwise be subject to IC 5-22, the eligible political subdivision or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

(b) In addition to the provisions of subsection (a), with respect to projects undertaken by the development authority, the development authority shall set a goal for participation by minority business enterprises of fifteen percent (15%) and women's business enterprises of five percent (5%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goals under this subsection, the authority shall take into account historical precedents in the same market.

Sec. 9. The office of management and budget shall contract with a certified public accountant for an annual financial audit of the development authority. The certified public accountant may not have a significant financial interest, as determined by the office of management and budget, in a project, facility, or service funded by or leased by or to the development authority. The certified public accountant shall present an audit report not later than four (4) months after the end of the development authority's fiscal year and shall make recommendations to improve the efficiency of development authority operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on the controls that were in effect during the audit period. The development authority shall pay the cost of the annual financial audit. In addition, the state board of accounts may at any time conduct an audit of any phase of the operations of the development authority. The development authority shall pay the cost of any audit by the state board of accounts.

#### Chapter 3. Development Authority Powers and Duties

Sec. 1. The development authority shall do the following:

- (1) Assist in the coordination of local efforts concerning projects.
- (2) Assist an airport authority and a regional transportation authority in coordinating regional transportation and economic development efforts.
- (3) Fund projects as provided in this article.

Sec. 2. (a) The development authority may do any of the following:

- (1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects located in an eligible county.
- (2) Lease land or a project to an eligible political subdivision.
- (3) Finance and construct additional improvements to projects or other capital improvements owned by the development authority and lease them to or for the benefit of an eligible political subdivision.
- (4) Acquire land or all or a part of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political

subdivision, with any additional improvements that may be made to the land or projects.

(5) Acquire all or a part of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.

(6) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of an airport authority or a regional transportation authority.

(7) Provide funding to assist an airport authority located in an eligible county in the construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of an airport facility or airport project.

(8) Provide funding for economic development projects in an eligible county.

(9) Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation, lease, or sublease, on the terms and conditions determined by the development authority, any real or personal property located in an eligible county.

(10) After giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a project.

(11) Make or enter into all contracts and agreements necessary or incidental to the performance of the development authority's duties and the execution of the development authority's powers under this article.

(12) Sue, be sued, plead, and be impleaded.

(13) Design, order, contract for, construct, reconstruct, and renovate a project or improvements to a project.

(14) Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers, and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its duties under this article.

(15) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

(16) Use the development authority's funds to match federal grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

(17) Except as prohibited by law, take any action necessary to carry out this article.

(b) If the development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and

(3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

Sec. 3. The development authority shall before November 1 of each year issue a report to the legislative council, the budget committee, and the governor concerning the operations and activities of the development authority during the preceding state fiscal year. The report to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 4. (a) The development authority shall prepare a comprehensive strategic development plan that includes detailed information concerning the following:

(1) The proposed projects to be undertaken or financed by the development authority.

(2) The following information for each project included under subdivision (1):

(A) Timeline and budget.

(B) The return on investment.

(C) The projected or expected need for an ongoing subsidy.

(D) Any projected or expected federal matching funds.

(b) The development authority shall before January 1, 2009, submit the comprehensive strategic development plan for review by the budget committee and approval by the director of the office of management and budget.

#### Chapter 4. Financing; Issuance of Bonds; Leases

Sec. 1. (a) The development board shall establish and administer a development authority fund.

(b) The development authority fund consists of the following:

(1) Amounts distributed under IC 8-15-2-14.8.

(2) Funds received from the federal government.

(3) Appropriations to the fund by the general assembly.

(4) Other local revenue appropriated to the fund by a political subdivision.

(5) Gifts, donations, and grants to the fund.

(c) The development authority fund shall be administered by the development authority.

(d) Money in the development authority fund shall be used by the development authority to carry out this article and does not revert to any other fund.

Sec. 2. (a) Subject to subsection (h), the development authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;

(2) acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects; or

(3) funding or refunding bonds issued under this chapter, IC 8-22-3, IC 36-9-3, or prior law.

(b) The bonds are payable solely from:

(1) the lease rentals from the lease of the projects for which the bonds were issued, insurance proceeds, and any other funds pledged or available; and

(2) except as otherwise provided by law, revenue received by the development authority and amounts deposited in the development authority fund.

(c) The bonds must be authorized by a resolution of the development board.

(d) The terms and form of the bonds must either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds must mature within forty (40) years.

(f) The board shall sell the bonds only to the Indiana finance authority established by IC 4-4-11-4 upon the terms determined by the development board and the Indiana finance authority.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use and operations;

(4) architectural, engineering, consultant, and attorney's fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction;

(8) financial advisory fees;

- (9) insurance during construction;
- (10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
- (11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on the bonds being refunded or refinanced.

(h) The development authority may not issue bonds under this article unless the development authority first finds that each contract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds requires payment of the common construction wage required by IC 5-16-7.

Sec. 3. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the development board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this article.

Sec. 4. (a) The development authority may secure bonds issued under this chapter by a trust indenture between the development authority and a corporate trustee, which may be any trust company or national or state bank in Indiana that has trust powers.

(b) The trust indenture may:

- (1) pledge or assign revenue received by the development authority, amounts deposited in the development authority fund, and lease rentals, receipts, and income from leased projects, but may not mortgage land or projects;
- (2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the development authority and development board;
- (3) set forth the rights and remedies of bondholders and trustees; and
- (4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

Sec. 5. (a) Bonds issued under IC 8-22-3, IC 36-9-3, or prior law may be refunded as provided in this section.

(b) An eligible political subdivision may:

- (1) lease all or a part of land or a project or projects to the development authority, which may be at a nominal lease rental with a lease back to the eligible political subdivision, conditioned upon the development authority assuming bonds issued under IC 8-22-3, IC 36-9-3, or prior law and issuing its bonds to refund those bonds; and
- (2) sell all or a part of land or a project or projects to the development authority for a price sufficient to provide for the refunding of those bonds and lease back the land or project or projects from the development authority.

Sec. 6. (a) Before a lease may be entered into by an eligible political subdivision under this chapter, the eligible political subdivision must find that the lease rental provided for is fair and reasonable.

(b) A lease of land or a project from the development authority to an eligible political subdivision:

- (1) may not have a term exceeding forty (40) years;
- (2) may not require payment of lease rentals for a newly constructed project or for improvements to an existing project until the project or improvements to the project have been completed and are ready for occupancy or use;
- (3) may contain provisions:
  - (A) allowing the eligible political subdivision to continue to operate an existing project until completion of the acquisition, improvements, reconstruction, or renovation of that project or any other project; and

(B) requiring payment of lease rentals for land, for an existing project being used, reconstructed, or renovated, or for any other existing project;

(4) may contain an option to renew the lease for the same or a shorter term on the conditions provided in the lease;

(5) must contain an option for the eligible political subdivision to purchase the project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the project, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of a project;

(7) may provide that the eligible political subdivision shall agree to:

- (A) pay any taxes and assessments on the project;
  - (B) maintain insurance on the project for the benefit of the development authority;
  - (C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and
  - (D) pay a deposit or series of deposits to the development authority from any funds legally available to the eligible political subdivision before the commencement of the lease to secure the performance of the eligible political subdivision's obligations under the lease; and
- (8) must provide that the lease rental payments by the eligible political subdivision shall be made from the development authority fund established under section 1 of this chapter and may provide that the lease rental payments by the eligible political subdivision shall be made from:
- (A) net revenues of the project;
  - (B) any other funds available to the eligible political subdivision; or
  - (C) both sources described in clauses (A) and (B).

Sec. 7. This chapter contains full and complete authority for leases between the development authority and an eligible political subdivision. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the development authority or the eligible political subdivision or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this article.

Sec. 8. If the lease provides for a project or improvements to a project to be constructed by the development authority, the plans and specifications shall be submitted to and approved by all agencies designated by law to pass on plans and specifications for public buildings.

Sec. 9. The development authority and an eligible political subdivision may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county in which the project is located.

Sec. 10. (a) An eligible political subdivision may lease for a nominal lease rental, or sell to the development authority, one (1) or more projects or parts of a project or land upon which a project is located or is to be constructed.

(b) Any lease of all or a part of a project by an eligible political subdivision to the development authority must be for a term equal to the term of the lease of that project back to the eligible political subdivision.

(c) An eligible political subdivision may sell property to the development authority for the amount the eligible political subdivision determines to be in the best interest of the eligible political subdivision. The development authority may pay that amount from the proceeds of bonds of the development authority.

Sec. 11. If an eligible political subdivision exercises its option to purchase leased property, the eligible political subdivision may issue its bonds as authorized by statute.

Sec. 12. (a) All:

- (1) property owned by the development authority;
- (2) revenues of the development authority; and
- (3) bonds issued by the development authority, the interest on the bonds, the proceeds received by a holder from the

sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(b) All securities issued under this chapter are exempt from the registration requirements of IC 23-2-1 and other securities registration statutes.

Sec. 13. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, savings banks, private banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

Sec. 14. An action to contest the validity of bonds to be issued under this chapter may not be brought after the time limitations set forth in IC 5-1-14-13.

Sec. 15. The general assembly covenants that it will not:

- (1) repeal or amend this article in a manner that would adversely affect owners of outstanding bonds, or the payment of lease rentals, secured by the amounts pledged under this chapter; or
- (2) in any way impair the rights of owners of bonds of the development authority, or the owners of bonds secured by lease rentals, secured by a pledge of revenues under this chapter."

Page 78, between lines 6 and 7, begin a new paragraph and insert: "SECTION 48. [EFFECTIVE JULY 1, 2006] (a) As used in this SECTION, "eligible county" has the meaning set forth in IC 36-7.6-1-8, as added by this act.

(b) The general assembly finds the following:

- (1) Each eligible county faces unique and distinct challenges and opportunities related to transportation and economic development that are different in scope and type than those faced by other units of local government in Indiana.
- (2) A unique approach is required to fully take advantage of the economic development potential of northeastern Indiana.
- (3) The powers and responsibilities provided to the northeast Indiana regional development authority established by IC 36-7.6-2-1, as added by this act, are appropriate and necessary to carry out the public purposes of encouraging economic development and further facilitating the provision of air and other regional transportation services, projects, and facilities, and economic development projects in the eligible counties."

Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 26, 2006.)

WALORSKI

Upon request of Representatives Walorski and Friend, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 112: yeas 58, nays 41. Motion prevailed.

#### HOUSE MOTION (Amendment 1008-39)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 33, between lines 23 and 24, begin a new line blocked left and insert:

"However, any bonds, debt, other securities, or other financing issued for the purposes of this article shall not be considered to constitute a debt of the state or any political subdivision of the state or a pledge of the faith and credit of the state or any political subdivision."

(Reference is to HB 1008 as printed January 26, 2006.)

BUDAK

Motion prevailed.

#### HOUSE MOTION (Amendment 1008-33)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 54, between lines 24 and 25, begin a new paragraph and insert:

"Sec. 7. (a) This section applies to a metropolitan statistical area, as defined by the United States Office of Management and Budget, in Indiana that is served by more than one (1) interstate system highway, street, or road.

(b) As used in this section, "interstate system" has the meaning set forth in IC 8-23-1-25.

(c) In establishing the route of a qualified project through a metropolitan statistical area, the authority shall consider routes that have the least disruptive influence on established businesses and residents. To the extent practicable, the authority shall consider using:

- (1) an established interstate system highway, street, or road in the metropolitan statistical area; or
- (2) a route that is west of established business corridors in a less densely used part of the metropolitan statistical area; as the route of a qualified project to avoid the disruption of neighborhoods and business areas."

(Reference is to HB 1008 as printed January 26, 2006.)

FRIZZELL

Motion prevailed.

#### HOUSE MOTION (Amendment 1008-21)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 1, delete lines 1 through 15, begin a new paragraph and insert:

"SECTION 1. IC 6-3.5-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. In the case of a county that contains a consolidated city, the city-county council may appropriate money derived from the surtax to:

- (1) the department of transportation established by IC 36-3-5-4 for use by the department under law; or
- (2) the Indiana finance authority for the payment of lease rentals under IC 8-14.6.

The city-county council may not appropriate money derived from the surtax for any other purpose.

SECTION 2. IC 6-3.5-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) In the case of a county that does not contain a consolidated city of the first class, the county treasurer shall deposit the surtax revenues in a fund to be known as the "\_\_\_\_\_ County Surtax Fund".

(b) Before the twentieth day of each month, the county auditor shall allocate the money deposited in the county surtax fund during that month among the county and the cities and the towns in the county. The county auditor shall allocate the money to counties, cities, and towns under IC 8-14-2-4(c)(1) through IC 8-14-2-4(c)(3).

(c) Before the twenty-fifth day of each month, the county treasurer shall distribute to the county and the cities and towns in the county the money deposited in the county surtax fund during that month. The county treasurer shall base the distribution on allocations made by the county auditor for that month under subsection (b).

(d) A county, city, or town may only use the surtax revenues it receives under this section to:

- (1) construct, reconstruct, repair, or maintain streets and roads under its jurisdiction; or
- (2) provide funds to the Indiana finance authority for the payment of lease rentals under IC 8-14.6.

SECTION 3. IC 6-3.5-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) In the case of a county that contains a consolidated city, the city-county council may appropriate money derived from the wheel tax to:

- (1) the department of transportation established by IC 36-3-5-4 for use by the department under law; or
- (2) an authority established under IC 36-7-23; or
- (3) the Indiana finance authority for the payment of lease rentals under IC 8-14.6.

(b) The city-county council may not appropriate money derived from the wheel tax for any other purpose.

SECTION 4. IC 6-3.5-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) In the case of a county that does not contain a consolidated city, the county treasurer shall deposit the wheel tax revenues in a fund to be known as the "County Wheel Tax Fund".

(b) Before the twentieth day of each month, the county auditor shall allocate the money deposited in the county wheel tax fund during that month among the county and the cities and the towns in the county. The county auditor shall allocate the money to counties, cities, and towns under IC 8-14-2-4(c)(1) through IC 8-14-2-4(c)(3).

(c) Before the twenty-fifth day of each month, the county treasurer shall distribute to the county and the cities and towns in the county the money deposited in the county wheel tax fund during that month. The county treasurer shall base the distribution on allocations made by the county auditor for that month under subsection (b).

(d) A county, city, or town may only use the wheel tax revenues it receives under this section:

(1) to construct, reconstruct, repair, or maintain streets and roads under its jurisdiction; or

(2) as a contribution to an authority established under IC 36-7-23; or

(3) to provide funds to the Indiana finance authority for the payment of lease rentals under IC 8-14.6.

SECTION 5. IC 8-14-10-10, AS ADDED BY P.L.246-2005, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The grant anticipation fund is established to construct and reconstruct state highways. The grant anticipation fund consists of:

(1) distributions of federal highway revenues (as defined in IC 8-14.5-7-2) made under IC 8-23-3-11;

(2) the one billion dollars (\$1,000,000,000) of proceeds of bonds or notes deposited in the fund under IC 8-14.5-7-5; and

(3) the five hundred million dollars (\$500,000,000) of bond proceeds transferred to the fund under IC 8-15-2-9.5.

(b) The grant anticipation fund shall be administered by the department. The treasurer of state shall invest the money in the grant anticipation fund not currently needed to meet the obligations of the grant anticipation fund in the same manner as other public funds may be invested.

(c) Money in the grant anticipation fund at the end of a state fiscal year does not revert to the state general fund.

(d) **Subject to subsection (f)**, the department may use the money in the grant anticipation fund only to pay the following costs:

(1) The cost of construction or reconstruction of a highway improvement project.

(2) The cost of acquisition of all land, rights-of-way, property, rights, easements, and any other legal or equitable interests acquired by the department for the construction or reconstruction of a highway improvement project, including the cost of any relocations incident to the acquisition.

(3) The cost of demolishing or removing any buildings, structures, or improvements on property acquired by the department for the construction or reconstruction of a highway improvement project.

(4) Engineering and legal expenses and the costs of plans, specifications, surveys, estimates, and any necessary feasibility studies.

(5) Payment of rentals and performance of other obligations under contracts or leases relating to highway improvement projects securing grant anticipation revenue bonds or notes issued under IC 8-14.5-7. However, amounts in the grant anticipation fund may not be pledged to such payments.

(e) A holder of grant anticipation revenue bonds or notes issued under IC 8-14.5-7 may not compel the payment of federal highway revenues to the department.

(f) **The auditor of state shall establish a state highway opportunity account within the fund for the proceeds of bonds or notes deposited in the fund under IC 8-14.5-7-5 and IC 8-15-2-9.5 and any investment income attributable to those proceeds. The**

**department may use the money in the account only to pay the following costs:**

(1) The cost of construction or reconstruction of a highway improvement project.

(2) The cost of acquisition of all land, rights-of-way, property, rights, easements, and any other legal or equitable interests acquired by the department for the construction or reconstruction of a highway improvement project, including the cost of any relocations incident to the acquisition.

(3) The cost of demolishing or removing any buildings, structures, or improvements on property acquired by the department for the construction or reconstruction of a highway improvement project.

(4) Engineering and legal expenses and the costs of plans, specifications, surveys, estimates, and any necessary feasibility studies.

The department may not allocate any of the money deposited in the account to highway improvement projects located in counties traversed by the Indiana Toll Road.

(g) As used in this subsection, "condemnor" means any person authorized by Indiana law to exercise the power of eminent domain. With respect to a highway improvement project for which an allocation of money is made under subsection (f), a condemnor may not exercise the power of eminent domain to acquire real property:

(1) from a private entity; and

(2) with the intent of transferring ownership or control of the real property to another private entity.

(h) In carrying out highway improvement projects under this chapter, the department is subject to the provisions of:

(1) 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes;

(2) IC 4-13-16.5 concerning minority business enterprises;

(3) IC 4-13-16.5 concerning women's business enterprises;

(4) federal and state laws concerning businesses treated as disadvantaged business enterprises; and

(5) IC 5-22-15 concerning preferences for Indiana businesses, to the extent permitted by applicable federal and state law and regulations.

SECTION 6. IC 8-14.5-7-5, AS ADDED BY P.L.246-2005, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **Subject to subsection (b)**, the authority may, by resolution, before July 1, 2009, issue grant anticipation revenue bonds or notes for any purpose that is authorized by IC 8-14.5-6 and for which the department may use federal highway revenues. **When issuing grant anticipation revenue bonds or notes, the authority is subject to the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes.**

(b) The authority shall make the initial issue of grant anticipation revenue bonds or notes under this chapter on or before August 1, 2006. The authority shall:

(1) issue the bonds or notes in an amount equal to one billion dollars (\$1,000,000,000) plus all costs that are associated with the issuance of the bonds or notes and payable from the proceeds of the bonds or notes, including:

(A) financing charges;

(B) costs of issuance of the bonds or notes, including costs of credit enhancement, such as bond or note insurance;

(C) bond or note discount;

(D) capitalized interest; and

(E) the cost of funding any reserves to secure payment of the bonds or notes; and

(2) upon receipt of the proceeds of the bonds or notes, transfer one billion dollars (\$1,000,000,000) of the proceeds to the treasurer of state for deposit in the state highway opportunity account established within the grant anticipation fund under IC 8-14-10-10.

SECTION 7. IC 8-14.6 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:



## ARTICLE 14.6. LEASE FINANCING FOR LOCAL ROAD PROJECTS

### Chapter 1. Legislative Findings of Fact

Sec. 1. The general assembly makes the following findings of fact:

- (1) That there exists in cities, towns, and counties in Indiana a need for construction, acquisition, reconstruction, improvement, and extension of local roads in order to provide for the public welfare and safety by providing safe, dependable, and reliable local roads for vehicular traffic.
- (2) That the development and maintenance of the economy of Indiana's cities, towns, and counties require an adequate system of local roads in order to provide for the public welfare and to facilitate the creation and maintenance of jobs, the increase and stabilization of the tax base, and the general economic welfare of cities, towns, and counties and their citizens.
- (3) That it is necessary to serve the public interest and to provide for the public welfare by adopting this article for the purposes described in this article.

Sec. 2. This article provides an additional and alternative method for doing the things authorized by this article, and is supplemental and additional to powers conferred by other laws and not in derogation of any other powers.

Sec. 3. This article is necessary for the welfare of the cities, towns, and counties of Indiana and their inhabitants and shall be liberally construed to effect the purposes of this article.

### Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Authority" refers to the Indiana finance authority established under IC 4-4-11.

Sec. 3. "Bonds" refers to bonds of the authority issued under IC 8-14.6-6.

Sec. 4. "Capitalized interest" means interest cost on bonds or notes before and during the period of construction of the local road project for which the bonds or notes were issued, and for a period not to exceed one (1) year after completion of construction.

Sec. 5. "Construction" means the construction, acquisition, reconstruction, improvement, and extension of a local road project.

Sec. 6. "Costs" as applied to any local road project includes any item or cost of a capital nature incurred in the construction of a local road project, including:

- (1) the cost of construction;
- (2) the cost of acquisition of all land, rights-of-way, property, rights, easements, and any other legal or equitable interests acquired by the authority for the construction, including the cost of any relocations incident to the acquisition;
- (3) the cost of demolishing or removing any buildings, structures, or improvements on property acquired by the authority, including the cost of:
  - (A) acquiring any property to which the buildings, structures, or improvements may be moved; or
  - (B) acquiring any property that may be exchanged for property acquired by the authority;
- (4) financing charges;
- (5) costs of issuance of bonds or notes, including costs of credit enhancement, such as bond or note insurance;
- (6) remarketing or conversion fees;
- (7) bond or note discount;
- (8) capitalized interest;
- (9) the cost of funding any reserves to secure the payment of bonds or notes;
- (10) engineering and legal expenses, costs of plans, specifications, surveys, estimates, and any necessary feasibility studies;
- (11) other expenses necessary or incident to determining the feasibility or practicability of constructing any local road project;

(12) administrative expenses of the authority or one (1) or more local units relating to any local road project financed by bonds or notes;

(13) reimbursement of one (1) or more local units for:

- (A) any cost, obligation, or expense incurred by the local unit or units relating to a local road project;
- (B) advances relating to a local road project from the local unit or units to the authority for surveys, borings, preparation of plans and specifications, or engineering services; or
- (C) any other cost of construction incurred by the local unit or units or paid from advances; and

(14) other expenses the authority finds necessary or incident to the construction of the local road project, the financing of the construction, and the placing of the local road project in operation.

Sec. 7. "Local road project" means any:

- (1) road;
- (2) street;
- (3) motorway;
- (4) bridge;
- (5) tunnel;
- (6) overpass;
- (7) underpass;
- (8) interchange;
- (9) entrance;
- (10) approach; or
- (11) other public way;

that is part of the arterial road system, local county roads, arterial street system, or local streets for a local unit for purposes of IC 8-14-2. The term includes all land, rights-of-way, property, rights, easements, materials, and legal or equitable interests necessary for the construction of the local road project.

Sec. 8. "Local unit" means a city, town, or county acting through its fiscal body (as defined in IC 36-1-2-6).

Sec. 9. "Notes" refers to notes of the authority issued under IC 8-14.6-6 and includes any evidences of indebtedness of the authority except bonds.

Sec. 10. "Property owner" means all individuals, copartnerships, associations, governmental units or entities, corporations, limited liability companies, or other legal entities having any title or interest in any land, rights-of-way, property, rights, easements, or legal or equitable interests that may be acquired by the authority.

Sec. 11. "Weighted average life" of an issue of bonds or notes means:

- (1) the sum of the products of the face amount of each maturity and the number of years to maturity (determined separately for each maturity and by taking into account mandatory sinking fund redemptions); divided by
- (2) the face amount of the entire issue of bonds or notes.

Sec. 12. "Weighted average useful life" of a local road project or local road projects means:

- (1) the sum of the products of the cost of each asset comprising the local road project or local road projects and the useful life of the respective asset; divided by
- (2) the total cost of all the assets comprising the local road project or local road projects.

For purposes of this computation, the useful life of land is fifty (50) years. The useful life of all other assets comprising the local road project shall be conclusively evidenced by a certificate of the local unit, supported by a statement from the local unit's consulting engineer. The weighted average useful life of any local road project shall be determined as of the later of the date on which the local road project is expected to be placed in service and the date on which the bonds or notes are issued.

### Chapter 3. General Provisions

Sec. 1. The authority shall contract with one (1) or more local units for construction, ownership, maintenance, and operation of local road projects.

Sec. 2. The authority shall finance local road projects in accordance with this article.

Sec. 3. The authority may exercise any powers provided under this article in participation or cooperation with any governmental

entity and enter into any contracts to facilitate that participation or cooperation without compliance with any other statute. This article constitutes complete authority for the authority to carry out its powers and duties under this article. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision are required for the authority to carry out its powers and duties, except as prescribed in this article.

Sec. 4. The authority may pay the cost of construction of a local road project from any funds available to the authority under this article or any other law.

Sec. 5. The authority may sell, transfer, lease, or otherwise convey any land, rights-of-way, property, rights, easements, or legal or equitable interest it considers necessary or convenient for carrying out this article, including disposal of unused or surplus property.

Sec. 6. The authority may acquire by purchase, whenever it considers a purchase expedient, any land, rights-of-way, property, rights, easements, or other legal or equitable interests as it considers necessary or convenient for the construction and operation of any local road project. A purchase under this section shall be made upon the terms and at the price agreed upon between the authority and the property owner.

Sec. 7. The authority may make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article or any other law. These contracts or agreements are not subject to any approvals other than the approval of the authority and may be for any term of years and contain any terms that are considered reasonable by the authority.

Sec. 8. The authority may employ and fix the compensation of financial advisors and underwriters, bond counsel, other attorneys with the approval of the attorney general, and other employees, independent contractors, and agents as necessary in its judgment to carry out this article. In carrying out this article, the authority is subject to the provisions of:

- (1) 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes;
- (2) IC 4-13-16.5 concerning minority business enterprises;
- (3) IC 4-13-16.5 concerning women's business enterprises;
- (4) federal and state laws concerning businesses treated as disadvantaged business enterprises; and
- (5) IC 5-22-15 concerning preferences for Indiana businesses, to the extent permitted by applicable federal and state law and regulations.

Sec. 9. The authority may accept gifts, devises, bequests, grants, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to the aid.

Sec. 10. The authority may accept the transfer of any local road project to the authority.

Sec. 11. (a) As used in this section, "condemnor" means any person authorized by Indiana law to exercise the power of eminent domain.

(b) Except as provided in subsections (c) and (d), the authority may, in the manner provided by IC 8-23-7, acquire by appropriation any land, rights-of-way, property, rights, easements, or other legal or equitable interests necessary or convenient for the construction or the efficient operation of any local road project. However, compensation for the property taken shall first be made in money as provided by law.

(c) The authority may take or disturb property or facilities that:

- (1) belong to any public utility or to a common carrier engaged in interstate commerce;
- (2) are required for the proper and convenient operation of the public utility or common carrier; and
- (3) are not located within the limits of local road projects being constructed under this article;

only if provision is made for the restoration, relocation, or duplication of the property or facilities elsewhere at the cost of the authority.

(d) A condemnor may not exercise the power of eminent domain to acquire real property with respect to any local road project under this article:

- (1) from a private entity; and
- (2) with the intent of transferring ownership or control of the real property to another private entity.

Sec. 12. The authority may do all things necessary or proper to carry out this article.

Sec. 13. A local unit may convey, transfer, lease, or sell, with or without consideration, real property of any nature (including buildings, structures, improvements, land, rights-of-way, easements, and legal or equitable interests), title to which is held in the name of the local unit, to the authority, without being required to advertise or solicit bids or proposals, in order to accomplish the governmental purposes of this article.

Sec. 14. All property of the authority is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments of the state or any political subdivision of the state.

#### Chapter 4. Contracts With Local Units

Sec. 1. The authority is responsible for the construction, leasing, and ownership of local road projects. With respect to each local road project, the authority and one (1) or more local units may enter into a contract for the purposes set forth in this chapter. If the authority and the local unit or units decide to enter into a contract under this chapter, the authority and the local unit or units may enter into a separate contract for each local road project or a master contract for several local road projects.

Sec. 2. A contract under this chapter must:

- (1) provide for the construction and ownership of the local road project; and
- (2) describe the local road project or local road projects, setting forth in general terms principal features such as geographic location, widths of rights-of-way, number of lanes in each direction, width of traffic lanes, widths of shoulders, location and nature of tunnels, overpasses, underpasses, interchanges, bridges, approaches, and connecting roads, streets, and highways.

Sec. 3. The contract may include the following:

- (1) Provisions for payment by the authority to the local unit or units of all costs incurred by the local unit or units in the performance of the contracts, including all costs of construction, salaries, wages, and associated costs of personnel attributable to performance of the contract.
- (2) Other terms and conditions that the authority and the local unit or units consider appropriate.

Sec. 4. Notwithstanding any other law, a local unit may enter into a contract with the authority by negotiating the contract with the authority and without complying with the requirements of any other law. A local unit shall observe any existing contractual commitments to the holders of bonds or notes or other persons when entering into a contract.

#### Chapter 5. Leases With Local Units

Sec. 1. (a) In addition to its other powers, one (1) or more local units may enter into a lease or leases with the authority under section 2 or 3 of this chapter for any or all of the purposes set forth in this article. Notwithstanding any other law, a local unit may enter into a lease with the authority by negotiating the lease with the authority and without complying with the requirements of any other law. A local unit shall observe any existing contractual commitments to the holders of bonds or notes or other persons when entering into a lease.

(b) The authority has all the powers necessary and incidental to carry out the terms and conditions of leases under this chapter.

(c) If the authority and one (1) or more local units decide to enter into a lease under this chapter, the authority and the local unit or units may enter into a separate lease for each local road project or may enter into one (1) or more master leases for several local road projects.

Sec. 2. (a) A lease entered into under this section must include the following:

- (1) A statement that the term of the lease is for a period coextensive with the biennium used for state budgetary and

appropriation purposes with a fractional period when the lease begins, if necessary.

(2) A statement that the term of the lease is extended from biennium to biennium, with the extensions not to exceed a lease term of twenty-five (25) years, unless either the authority or the local unit or units give notice of nonextension at least six (6) months before the end of a biennium, in which event the lease expires at the end of the biennium in which the notice is given.

(3) A provision plainly stating that the lease does not constitute an indebtedness of the state or any local unit within the meaning or application of any constitutional provision or limitation, and that lease rentals are payable by the local unit or units solely from the sources described in section 6 of this chapter, for the actual use or availability for use of local road projects provided by the authority, with payment commencing not earlier than the time the use or availability commences.

(4) Provisions requiring the local unit or units to pay rent at times and in amounts sufficient to pay in full:

(A) the debt service payable under the terms of any bonds or notes issued by the authority and outstanding with respect to any local road project, including any required additions to reserves for the bonds or notes maintained by the authority; and

(B) additional rent as provided by the lease;

subject to the appropriation of money by the local unit or units to pay lease rentals.

(5) Provisions requiring the local unit or units to operate and maintain the local road project or local road projects during the term of the lease.

(6) A provision in each master lease for two (2) or more local road projects requiring that each local road project added to the master lease shall be covered by a supplemental lease describing the particular local road project, stating the additional rental payable, and providing that all lease covenants, including the obligation to pay the original and additional rent under any supplement, shall be unitary and include all local road projects covered, whether by the master lease or a supplemental lease.

(b) A lease entered into under this section may contain other terms and conditions that the authority and the local unit or units consider appropriate.

(c) The fiscal officer (as defined in IC 36-1-2-7) of the local unit shall request an appropriation from the local unit for payment of lease rentals on any lease entered into under this section in writing at a time sufficiently in advance of the date for payment of the lease rentals so that an appropriation may be made in the normal budgetary process of the local unit.

Sec. 3. (a) A lease entered into under this section must include the following:

(1) The term of the lease, which may not exceed the weighted average useful life of the local road project or local road projects.

(2) A provision plainly stating that the lease does not constitute an indebtedness of the state or any local unit within the meaning or application of any constitutional provision or limitation, and that lease rentals are payable by the local unit or units solely for the annual use or availability for use of local road projects provided by the authority, with payment commencing not earlier than the time the use or availability commences.

(3) Provisions requiring the local unit or units to pay rent at times and in amounts sufficient to pay in full the following:

(A) The debt service payable under the terms of any bonds or notes issued by the authority and outstanding with respect to any local road project, including any required additions to reserves for the bonds or notes maintained by the authority.

(B) Additional rent as provided by the lease.

(4) Provisions requiring the local unit or units to operate and maintain the local road project or local road projects during the term of the lease.

(5) A provision in each master lease for two (2) or more local road projects requiring that each local road project added to the master lease shall be covered by a supplemental lease describing the particular local road project, stating the additional rental payable, and providing that all lease covenants, including the obligation to pay the original and additional rent under any supplement, shall be unitary and include all local road projects covered, whether by the master lease or a supplemental lease.

(b) A lease entered into under this section may contain other terms and conditions that the authority and the local unit or units consider appropriate.

Sec. 4. If a local unit fails at any time to pay to the authority when due any lease rentals on any lease under this chapter, the chairman of the authority shall immediately report the unpaid amount in writing to the general assembly and the governor.

Sec. 5. A local unit or units may lease any property under its control to the authority for construction of a local road project, which local road project may be leased to the local unit or units.

Sec. 6. (a) A local unit shall pay lease rentals for leases entered into under this chapter from revenues from any combination of the following sources:

(1) Money payable to the local unit from the motor vehicle highway account.

(2) Money payable to the local unit from the local road and street account.

(3) Revenues from the county motor vehicle excise surtax.

(4) Revenues from the county wheel tax.

(5) Federal transportation revenues apportioned or allocated to the state and distributed to the local unit by the Indiana department of transportation.

(6) Any other source of revenues (other than property taxes) that is legally available to the local unit.

(b) A local unit may, in the manner provided by IC 5-1-14-4, pledge the revenues described in this section for the payment of lease rentals. However, in making a pledge, the local unit shall not commit money required to provide adequate funding for other local road needs.

Sec. 7. If a local unit pledges money from the motor vehicle highway account or the local road and street account, or both, for the payment of lease rentals for leases entered into under this chapter, the local unit shall immediately provide the auditor of state with a written notice setting forth the terms of the pledge and directing the auditor of state to:

(1) withhold the amounts pledged from the distributions that are otherwise payable to the local unit under IC 8-14-1-3 or IC 8-14-2-4, or both; and

(2) pay the amounts withheld to the authority.

Notwithstanding IC 8-14-1-3 and IC 8-14-2-4, the auditor of state shall withhold and pay to the authority the amounts specified in the notice.

Sec. 8. Notwithstanding any other provision of law, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to a local unit (other than for goods or services provided by the local unit), at any time after written notice to the department or agency head from the authority that the local unit is in default on the payment of lease rentals for a lease entered into under this chapter, the department or agency shall withhold the payment of that money from the local unit and pay over the money to the authority for the purpose of paying the lease rentals.

Sec. 9. The requirements of sections 7 and 8 of this chapter to withhold amounts due under a lease do not create a debt of the state or a local unit for purposes of the Constitution of the State of Indiana.

#### Chapter 6. Issuance of Bonds and Notes

Sec. 1. Subject to section 4 of this chapter, and before July 1, 2009, the authority shall, by resolution, issue and sell bonds or notes of the authority to provide funds to carry out this article with respect to the construction of a local road project or local road projects or the refunding of any bonds or notes, together with any reasonable costs associated with a refunding.

Sec. 2. (a) The construction of a local road project may not be financed under this article, if at the time the lease with respect to

the local road project is initially entered into, the weighted average useful life of the local road project is less than five (5) years.

(b) For purposes of this section and section 4 of this chapter, a certificate of the local unit, supported by a statement from the local unit's consulting engineer, as to the weighted average useful life of the local road project is conclusive with respect to the matters contained in the certificate.

(c) If any bonds or notes bear interest at a variable or an adjustable rate, lease rentals under any lease or leases attributable to debt service shall be fixed over the term of the lease or leases based on the fair and reasonable value of the local road project or local road projects leased.

Sec. 3. (a) Before issuing a series of bonds or notes, the authority shall publish a notice of its determination to issue the bonds or notes. The notice shall be published:

(1) one (1) time in two (2) newspapers published and of general circulation in the city of Indianapolis; and

(2) one (1) time in one (1) newspaper published and of general circulation in each local unit that proposes to enter into a lease of the local road projects to be financed by the bonds or notes.

(b) No action to contest the validity of:

(1) any contract entered into by one (1) or more local units and the authority before the bonds or notes are issued;

(2) any lease entered into by one (1) or more local units and the authority before the bonds or notes are issued to secure a series of bonds or notes; or

(3) a series of bonds or notes issued by the authority;

may be brought against the authority after the fifteenth day following publication of the notice required by subsection (a)(1) or against a local unit after the fifteenth day following publication of the notice under subsection (a)(2).

(c) If a lease or contract is entered into under this chapter after bonds or notes relating to the lease or contract are issued, the authority may publish notice of execution of the lease or contract as set forth in subsection (a). No action against the authority to contest the validity of such a lease or contract may be brought after the fifteenth day following publication of the notice under subsection (a)(1) or against a local unit after the fifteenth day following publication of the notice under subsection (a)(2).

(d) If an action against the authority or a local unit challenging a lease, a contract, bonds, or notes is not brought within the time prescribed by this section, the lease, contract, bonds, or notes shall be conclusively presumed to be fully authorized and valid under the laws of the state and any person or entity is estopped from further questioning the authorization, validity, execution, delivery, or issuance of the contract, lease, bonds, or notes.

Sec. 4. (a) The bonds or notes must indicate on their face:

(1) the maturity date or dates, as determined under subsection (b);

(2) the interest rate or rates (whether fixed, variable, or a combination of fixed and variable) or the manner in which the interest rate or rates will be determined if variable or adjustable rates are used;

(3) registration privileges and place of payment, including provisions for book entry obligations as set forth in IC 5-1-15;

(4) the conditions and terms under which the bonds or notes may be redeemed or prepaid before maturity; and

(5) the source of payment as set forth in section 9 of this chapter.

(b) The weighted average life of the bonds or notes may not exceed the sum of:

(1) the weighted average useful life of the local road project or local road projects to be financed from the proceeds of the bonds or notes; plus

(2) the period of construction of the local road project or local road projects.

Sec. 5. The bonds or notes:

(1) shall be executed by the manual or facsimile signature of the chairman or vice chairman of the authority;

(2) shall be attested by the manual or facsimile signature of the secretary-treasurer or assistant secretary-treasurer of the authority;

(3) shall be imprinted or impressed with the seal of the authority by any means;

(4) may be authenticated by a trustee, registrar, or paying agent; and

(5) constitute valid and binding obligations of the authority, even if the chairman, vice chairman, secretary-treasurer, or assistant secretary-treasurer whose manual or facsimile signature appears on the bonds or notes no longer holds that office.

Sec. 6. The bonds or notes, when issued, have all the qualities of negotiable instruments, subject to provisions for registration, under IC 26 and are incontestable in the hands of a bona fide purchaser or owner of the bonds or notes for value.

Sec. 7. The bonds or notes may be sold by the authority at a public or a negotiated sale at a time or times determined by the authority and at a premium or discount as determined by the authority. In determining the amount of bonds or notes to be issued and sold, the authority may include the costs of construction or of refunding bonds or notes, including reasonable debt service reserves, and all other expenses necessary or incident to the construction of the local road project, a refunding, or the issuance of the bonds or notes.

Sec. 8. The proceeds of the bonds or notes are appropriated for the purpose for which the bonds or notes may be issued and the proceeds shall be deposited and disbursed in accordance with any provisions and restrictions that the authority may provide in the resolution or trust agreement authorizing the issuance of the bonds or notes. The maturities of the bonds or notes, the rights of the owners, and the rights, duties, and obligations of the authority are governed in all respects by this article and the resolution or trust agreement.

Sec. 9. The bonds or notes:

(1) constitute the corporate obligations of the authority;

(2) do not constitute an indebtedness of the state or any local unit within the meaning or application of any constitutional provision or limitation; and

(3) are payable solely as to both principal and interest from:

(A) the revenues from a lease to one (1) or more local units, if any;

(B) proceeds of bonds or notes, if any; or

(C) investment earnings on proceeds of bonds or notes.

Sec. 10. The provisions of this article and the covenants and undertakings of the authority as expressed in any proceedings preliminary to or in connection with the issuance of the bonds or notes may be enforced, subject to the provisions of any resolution or trust agreement, by a bond or note owner by action for injunction or mandamus against the authority or any officer, agent, or employee of the authority. However, no action for monetary judgment may be brought against the state for any violations of this article or for payment of the bonds or notes of the authority.

Sec. 11. All bonds or notes issued under this article are issued by a body corporate and politic of this state, but not a state agency, and for an essential public and governmental purpose. The bonds and notes, the interest on the bonds and notes, the proceeds received by an owner from the sale of the bonds or notes to the extent of the owner's cost of acquisition, proceeds received upon redemption for maturity, proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

Sec. 12. Notwithstanding any other law, all financial institutions, investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, money, or other funds belonging to them or within their control in bonds or notes issued under this chapter.

Sec. 13. Bonds or notes issued under this chapter are exempt from the registration requirements of IC 23-2-1 and any other state securities registration statutes.

Sec. 14. A pledge of lease rentals, proceeds of bonds or notes, investment earnings on those proceeds, or other money pledged by the authority is binding from the time the pledge is made. Lease rentals, proceeds of bonds or notes, investment earnings on those proceeds, or other money pledged by the authority and thereafter received by the authority or its trustee or fiduciary is immediately subject to the lien of the pledge without any further act, and the lien of the pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, regardless of whether the parties have notice of the lien. A resolution, trust agreement, or any other instrument by which a pledge is created is required to be filed or recorded only in the records of the authority.

Sec. 15. The authority may obtain from a department or an agency of the state or of the United States, or from a nongovernmental insurer, available insurance or guaranty for the payment or repayment of interest or principal, or both, or any part of interest or principal, or any debt service reserve funds, on bonds or notes issued by the authority, or on securities purchased or held by the authority.

Sec. 16. The authority may enter into agreements with an entity to provide credit enhancement or liquidity support for any bonds or notes issued by the authority, or for any debt service reserves securing any bonds or notes, with terms that are reasonable and proper, in the discretion of the authority, and not in violation of law. The authority may execute and deliver notes to evidence its obligation to make payments under such an agreement, but these notes must conform to this article in all respects.

Sec. 17. The authority may enter into agreements or contracts with any financial institution as may be necessary, desirable, or convenient in the opinion of the authority for rendering services in connection with:

- (1) the care, custody, or safekeeping of securities or other investments held or owned by the authority;
- (2) the payment or collection of amounts payable as to principal or interest; and
- (3) the delivery to the authority of securities or other investments purchased or sold by it.

The authority may also, in connection with any of the services rendered by a financial institution as to custody and safekeeping of its securities or investments, require security in the form of collateral bonds, surety agreements, or security agreements as, in the opinion of the authority, is necessary or desirable.

Sec. 18. (a) In the discretion of the authority, any bonds and notes issued under this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in Indiana. Such a trust agreement may also provide for a cotrustee, which may be any trust company or bank in Indiana or another state.

(b) The trust agreement or the resolution providing for the issuance of the bonds or notes may contain provisions for protecting and enforcing the rights and remedies of the owners of bonds or notes as may be reasonable and proper, in the discretion of the authority, and not in violation of law.

(c) The trust agreement or resolution may set forth the rights and remedies of the owners of any bonds or notes of the trustee and may restrict the individual right of action by the owners.

(d) Any trust agreement or resolution may contain other provisions that the authority considers reasonable and proper for the security of the owners of bonds or notes.

(e) All expenses incurred in carrying out the provisions of the trust agreement or resolution may be paid from money pledged or assigned to the payment of the principal of and interest on bonds or notes or from any other funds available to the authority.

Sec. 19. The authority may purchase bonds or notes of the authority out of its funds or money available for the purchase of its own bonds or notes. The authority may hold, cancel, or resell the bonds or notes subject to, and in accordance with, agreements with owners of its bonds or notes. Unless canceled, bonds or notes so held shall be considered to be held for resale or transfer and the obligation evidenced by the bonds or notes shall not be considered to be extinguished.

Sec. 20. Funds or money held by the authority under any trust agreement or resolution may be invested pending disbursement as provided in the trust agreement or the resolution. Such an investment is not restricted by or subject to the provisions of any other law.

#### Chapter 7. Reserve Fund for Bonds and Notes

Sec. 1. (a) The authority may establish and maintain a reserve fund for each issue of bonds or notes in which there shall be deposited or transferred:

- (1) all money appropriated by the general assembly for the purpose of the fund in accordance with section 3(a) of this chapter;
- (2) all proceeds of bonds or notes required to be deposited in the fund under the terms of:
  - (A) a contract between the authority and the holders of the bonds or notes; or
  - (B) a resolution of the authority with respect to the proceeds of bonds or notes;
- (3) all other money appropriated by the general assembly to a reserve fund; and
- (4) any other money or funds of the authority that it decides to deposit in the fund.

(b) Subject to section 3(b) of this chapter, money in any reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds or notes of the authority as the interest and principal become due and payable and for the retirement of bonds or notes. The money may not be withdrawn if a withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for payment of interest then due and payable on bonds or notes and the principal of bonds or notes then maturing and payable, whether by reason of maturity or mandatory redemption, for which payments other money of the bank is not then available. As used in this chapter, "required debt service reserve" means, as of the date of computation, the amount required to be on deposit in the reserve fund as provided by resolution or trust agreement of the authority.

(c) Money in any reserve fund that exceeds the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the authority and transferred to another fund or account of the authority, subject to the provisions of any agreement with the holders of any bonds or notes.

Sec. 2. For purposes of valuation, investments in the reserve fund shall be valued at par, or if purchased at less than par, at cost unless otherwise provided by resolution or trust agreement of the authority. Valuation on a particular date must include the amount of interest then earned or accrued to that date on the money or investments in the reserve fund.

Sec. 3. (a) In order to assure the maintenance of the required debt service reserve in any reserve fund, the general assembly may annually appropriate to the authority for deposit in one (1) or more of the funds the sum, certified by the authority to the general assembly, that is necessary to restore one (1) or more of the funds to an amount equal to the required debt service reserve. Before December 1 of each year, the authority shall make and deliver to the general assembly a certificate stating the sum required to restore the funds to that amount. Nothing in this subsection creates a debt or liability of the state to make any appropriation.

(b) All amounts received on account of money appropriated by the state to any reserve fund shall be held and applied in accordance with section 1(b) of this chapter. However, at the end of each fiscal year, if the amount in any reserve fund exceeds the required debt service reserve, any amount representing earnings or income received on account of any money appropriated to the reserve fund that exceeds the expenses of the authority for that fiscal year may be transferred to the state general fund.

Sec. 4. Subject to the provisions of any agreement with its holders, the bank may combine a reserve fund established for an issue of bonds or notes into one (1) or more reserve funds.

SECTION 8. IC 8-15-2-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 9.5. (a) On or before August 1, 2006, the authority shall:

(1) issue revenue bonds under section 9 of this chapter in an amount that exceeds all costs associated with the issuance of the bonds, including:

- (A) financing charges;
- (B) costs of issuance of the bonds or notes, including costs of credit enhancement, such as bond or note insurance;
- (C) bond or note discount;
- (D) capitalized interest; and
- (E) the cost of funding any reserves to secure payment of the bonds or notes;

by one billion dollars (\$1,000,000); and

(2) upon receipt of the proceeds of the bonds, transfer:

- (A) five hundred million dollars (\$500,000,000) of the proceeds to the treasurer of state for deposit in the grant anticipation fund established by IC 8-14-10-10; and
- (B) five hundred million dollars (\$500,000,000) of the proceeds to the toll road counties fund established by section 9.7 of this chapter.

(b) Notwithstanding any other provisions of this chapter, the principal of and interest on revenue bonds issued under this section are payable solely from revenues attributable to the rules concerning tolls that were adopted by the authority or the department, or both and were published as proposed rules in the Indiana Register on February 1, 2006.

(c) The authority must deliver to the budget agency a written guarantee that the total amount of attorney's fees for the revenue bonds issued under this section will not exceed two-tenths of one percent (0.2%) of the principal amount of the bonds.

(d) Revenue bonds issued under this section are not subject to IC 8-9.5-8-10.

SECTION 9. IC 8-15-2-9.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.7. (a) As used in this section, "eligible political subdivision" refers to:

- (1) counties through which a toll road project traverses;
- (2) cities and towns in the counties described in subdivision (1); and
- (3) any regional entity that provides funding for transportation services or transportation infrastructure projects and includes all or part of the territory of a county described in subdivision (1).

(b) As used in this section, "eligible project" means:

(1) with respect to an eligible political subdivision that is a county, city, or town, the acquisition, construction, renovation, improvement, and equipping of:

- (A) roads;
- (B) streets;
- (C) motorways;
- (D) bridges;
- (E) tunnels;
- (F) overpasses;
- (G) underpasses;
- (H) interchanges;
- (I) entrances;
- (J) approaches; or
- (K) other public ways;

that are part of the arterial road system, local county roads, arterial street system, or local streets for a local unit for purposes of IC 8-14-2, including all land, rights-of-way, property, rights, easements, materials, and legal or equitable interests necessary for the construction of the local road project;

(2) with respect to an eligible political subdivision that is a regional entity, any transportation service or transportation infrastructure project that the entity is legally authorized to provide; and

(3) with respect to the department, the acquisition, construction, renovation, improvement, and equipping of projects identified in the department's current long range comprehensive transportation plan.

(c) As used in this section, "fund" refers to the toll road counties fund.

(d) The toll road counties fund is established to provide money for the purposes described in this section. The authority shall hold, administer, and manage the fund. The fund consists of money transferred to the fund under section 9.5 of this chapter and any investment income attributable to that money.

(e) Money in the fund shall be deposited, paid, and secured in the manner provided by IC 4-4-11-32. Notwithstanding IC 5-13, the authority shall invest the money in the fund that is not needed to meet the obligations of the fund in the manner provided by an investment policy established by resolution of the authority.

(f) The fund is not part of the state treasury and is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(h) The authority must use the money in the fund to make distributions to:

- (1) the department; and
- (2) eligible political subdivisions;

for eligible projects located in eligible political subdivisions.

(i) Before October 1, 2006, and before July 1 in each year thereafter, the department may submit to the authority a list of the eligible projects that:

- (1) are to be carried out by the department in an eligible political subdivision before June 30 of the following year; and
- (2) require a distribution of money from the fund.

The list must include the amount of distributions required for each project, the total amount of distributions required for all projects, and the schedule of distributions required for each project. The authority may review and comment upon the proposed distributions and, upon a determination by the authority that the department's request complies with this section, the authority shall make the distributions in the amounts and in accordance with the schedule of projects provided by the department.

(j) Before October 1, 2006, and before July 1 in each year thereafter, eligible political subdivisions may submit to the authority a request for a distribution from the fund. The request must include a list of the eligible projects that:

- (1) are to be carried out by the eligible political subdivision before June 30 of the following year; and
- (2) require a distribution of money from the fund.

The list must include the amount of distributions requested for each project, the total amount of distributions requested for all projects, and the proposed schedule of distributions for each project. The authority may review and comment upon the proposed distributions and, upon a determination by the authority that a request complies with the provisions of this section, the authority shall make any distributions in the amounts and in accordance with the schedule of projects provided by the eligible political subdivision. The authority shall pay distributions under this subsection to the fiscal officer of the eligible political subdivision.

(k) As used in this subsection, "condemnor" means any person authorized by Indiana law to exercise the power of eminent domain. A condemnor may not exercise the power of eminent domain to acquire real property with respect to any eligible project under this section:

- (1) from a private entity; and
- (2) with the intent of transferring ownership or control of the real property to another private entity.

SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 8-14.5-7-6; IC 8-14.5-7-7."

Delete pages 2 through 76.

Page 77, delete lines 1 through 15.

Page 77, delete lines 36 through 42.

Page 78, delete lines 1 through 6.

Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 26, 2006.)

CRAWFORD

On the motion of Representative Whetstone, the previous question was called. Upon request of Representatives Crawford and Stilwell, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 113: yeas 47, nays 51. Motion failed.

HOUSE MOTION  
(Amendment 1008-8)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 31, line 38, delete "In" and insert **"(a) Except as provided in subsection (b), and in"**.

Page 33, between lines 12 and 13, begin a new paragraph and insert:

**"(b) A public-private agreement may not contain any provisions that:**

- (1) guarantee a specified or estimated amount of traffic on a toll road project;**
- (2) restrict or prohibit construction or expansion by the authority, the department, a political subdivision, or any other governmental entity of roads, highways, or other public transportation systems and facilities that might serve as an alternative to a toll road project; or**
- (3) are otherwise designed to protect an operator in any way from competition from other routes or facilities available for use by the public as an alternative to a toll road project."**

Page 54, line 41, delete "The" and insert **"Except as provided in subsection (c), the"**.

Page 57, between lines 7 and 8, begin a new paragraph and insert: **"(c) A public-private agreement may not contain any provisions that:**

- (1) guarantee a specified or estimated amount of traffic on, or usage of, a project;**
- (2) restrict or prohibit construction or expansion by the authority, the department, a political subdivision, or any other governmental entity of roads, highways, or other public transportation systems and facilities that might serve as an alternative to a project; or**
- (3) are otherwise designed to protect an operator in any way from competition from other routes or facilities available for use by the public as an alternative to a project."**

(Reference is to HB 1008 as printed January 26, 2006.)

AGUILERA

Upon request of Representatives Aguilera and Bauer, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 114: yeas 45, nays 51. Motion failed.

HOUSE MOTION  
(Amendment 1008-14)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 29, line 29, after "9." insert **"(a)"**.

Page 29, line 31, delete "a public hearing" and insert **"public hearings in at least the cities listed in subsection (b)"**.

Page 29, line 32, after "time" insert **"in each county in which a public hearing will be held"**.

Page 29, line 35, delete "." and insert **"in the county and the remaining public hearings to be held in other counties."**

Page 30, between lines 5 and 6, begin a new paragraph and insert: **"(b) Public hearings must be held under this section in at least the following cities, which the general assembly finds may be affected by the public-private agreement or the use of money derived from the public-private contract:**

- (1) South Bend.**
- (2) Gary or Merrillville.**
- (3) Fort Wayne.**
- (4) Washington.**
- (5) Bloomington.**
- (6) Evansville.**
- (7) Jeffersonville."**

Page 30, between lines 11 and 12, begin a new paragraph and insert:

**"(b) At the beginning of each hearing, a representative of the authority must make a presentation in a manner that is understandable by the average individual that explains all the facts and information related to the proposed public-private agreement and the options the state authority has if there is a default in any of the terms of the proposed public-private agreement."**

Page 30, line 12, delete "(b)" and insert **"(c)"**.

Page 30, line 29, after "project," insert **"the governor shall submit the designation to the general assembly for approval at a special session called specifically for the purpose of considering the terms and conditions of the public-private agreement. If the general assembly approves the public-private agreement by bill as provided in Article 4, Section 1 of the Constitution of the State of Indiana,"**

(Reference is to HB 1008 as printed January 26, 2006.)

CROOKS

On the motion of Representative Whetstone, the previous question was called. Upon request of Representatives Crooks and Stilwell, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 115: yeas 47, nays 51. Motion failed.

HOUSE MOTION  
(Amendment 1008-15)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 34, line 13, after "25 IAC 5" insert **", IC 4-13-16.5, and the United States Department of Transportation's disadvantaged business enterprise program"**.

Page 49, line 19, delete "shall establish a program to facilitate" and insert **", the operator, and any contractor or subcontractor of the operator shall comply with the requirements of state and federal law concerning"**.

(Reference is to HB 1008 as printed January 26, 2006.)

AGUILERA

Upon request of Representatives Aguilera and Stilwell, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 116: yeas 45, nays 51. Motion failed.

HOUSE MOTION  
(Amendment 1008-41)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 40, between lines 27 and 28, begin a new line block indented and insert:

**"(4) The major moves account."**

Page 41, line 28, delete "transfer" and insert **"allocate"**.

Page 41, line 30, delete "construction fund established" and insert **"account."**

Page 41, delete line 31.

Page 41, line 32, delete "The" insert **"Subject to section 8 of this chapter, the"**.

Page 43, between lines 13 and 14, begin a new paragraph and insert:

**"Sec. 8. In any state fiscal year, the amount available for distribution in the state fiscal year from the eligible projects account is:**

- (1) the total amount available for distribution in the eligible projects account; divided by**
- (2) the number of years remaining in the term of public-private agreement under this article.**

**Sec. 9. (a) Each state fiscal year, the authority shall distribute the amount determined under subsection (b) from the major moves account to the major moves construction fund established under IC 8-14-14.**

**(b) In any state fiscal year, the amount available for distribution from the major moves account is:**

- (1) the total amount available for distribution in the major moves account; divided by  
 (2) the number of years remaining in the term of public-public private agreement under this article."

(Reference is to HB 1008 as printed January 26, 2006.)

V. SMITH

Upon request of Representatives V. Smith and Dobis, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 117: yeas 46, nays 50. Motion failed.

#### HOUSE MOTION (Amendment 1008-38)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 25, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 32. IC 8-15-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### Chapter 4. Bipartisan Public-Private Partnership Review Commission

Sec. 1. As used in this chapter, "agreement" refers to the following:

- (1) A public-private partnership agreement (as defined in IC 8-15.5-2-8).
- (2) A public-private partnership agreement (as defined in IC 8-15.7-2-14).

Sec. 2. As used in this chapter, "commission" refers to the bipartisan public-private partnership review commission.

Sec. 3. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

Sec. 4. As used in this chapter, "operator" refers to the following:

- (1) An operator (as defined in IC 8-15.5-2-5).
- (2) An operator (as defined in IC 8-15.7-2-10).

Sec. 5. The bipartisan public-private partnership review commission is established.

Sec. 6. The commission consists of eight (8) members appointed by the governor.

Sec. 7. None of the members may be members of the general assembly.

Sec. 8. Not more than four (4) members of the commission may be members of the same political party.

Sec. 9. (a) This section applies to the appointment of the four (4) members of the commission who are not members of the same political party as the governor.

(b) Two (2) of the members appointed under this section shall be appointed from a list of six (6) names submitted to the governor by the leader in the senate of the political party that:

- (1) is not the same political party with which the governor is affiliated; and
- (2) has the most members of any political party described in subdivision (1).

(c) Two (2) of the members appointed under this section shall be appointed from a list of six (6) names submitted to the governor by the leader in the house of representatives of the political party that:

- (1) is not the same political party with which the governor is affiliated; and
- (2) has the most members of any political party described in subdivision (1).

Sec. 10. (a) Subject to this section, the term of a member of the commission is four (4) years.

(b) Four (4) of the initial members of the commission selected by the governor shall serve an abbreviated term. Not more than one (1) of the members appointed under section 9(b) of this chapter and one (1) of the members appointed under section 9(c) of this chapter may be selected for an abbreviated term under this section. The term of an initial member serving an abbreviated term under this section expires on June 30, 2008.

(c) The term of an initial member not serving an abbreviated term under this section expires June 30, 2010.

Sec. 11. The governor shall fill a vacancy on the commission for the remainder of the vacating member's term in the same manner as vacating member was appointed.

Sec. 12. The governor shall appoint the chairperson of the commission. The member appointed as chairperson serves as the chairperson at the pleasure of the governor.

Sec. 13. The expenses of the commission shall be paid by the authority.

Sec. 14. Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 15. Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 16. The affirmative votes of a majority of the voting members appointed to the commission are required for the commission to take action on any measure, including final reports.

Sec. 17. A meeting of the commission may be called by the chairperson, the governor, or three (3) members of the commission in a writing submitted to the chairperson.

Sec. 18. The commission shall review proposed public-private agreements with proposed operators as provided under IC 8-15.5 and IC 8-15.7."

Page 30, line 18, after "governor" insert ", the bipartisan public-private partnership review commission,".

Page 30, between lines 19 and 20, begin a new paragraph and insert:

"(b) Upon receipt of the determination under subsection (a), the bipartisan public-private partnership review commission shall evaluate the proposed project, the proposed public-private agreement, and the proposed operator. The authority and all state agencies shall cooperate with the bipartisan public-private partnership review commission and provide the bipartisan public-private partnership review commission with the information that the designation review commission determines is necessary to carry out the analysis. The analysis must cover financial and all other benefits and costs of the proposed public-private agreement with the proposed operator. The bipartisan public-private partnership review commission shall submit the designation review committee's findings and recommendations to the general assembly in an electronic format under IC 5-14-6, the governor, and the members of the budget committee. The recommendation must be accompanied by sufficient supporting documentation to permit a reader to identify the bipartisan public-private partnership review commission's assumptions and verify the accuracy and completeness of the bipartisan public-private partnership review commission's analysis."

Page 30, line 20, delete "(b) After" and insert "(c) If the designation review committee submits a recommendation that the authority enter into the proposed public-private partnership with the proposed operator and after".

Page 30, line 28, delete "(c)" and insert "(d)".

Page 52, line 10, after "governor" insert ", the bipartisan public-private partnership review commission,".

Page 52, between lines 11 and 12, begin a new paragraph and insert:

"(b) Upon receipt of the determination under subsection (a), the bipartisan public-private partnership review commission shall evaluate the proposed project, the proposed public-private agreement, and the proposed operator. The authority and all state agencies shall cooperate with the bipartisan public-private partnership review commission and provide the bipartisan public-private partnership review commission with the



information that the designation review commission determines is necessary to carry out the analysis. The analysis must cover financial and all other benefits and costs of the proposed public-private agreement with the proposed operator. The bipartisan public-private partnership review commission shall submit the designation review committee's findings and recommendations to the general assembly in an electronic format under IC 5-14-6, the governor, and the members of the budget committee. The recommendation must be accompanied by sufficient supporting documentation to permit a reader to identify the bipartisan public-private partnership review commission's assumptions and verify the accuracy and completeness of the bipartisan public-private partnership review commission's analysis."

Page 52, line 12, delete "(b) After" and insert "(c) If the bipartisan public-private partnership review commission submits a recommendation that the authority enter into the proposed public-private partnership with the proposed operator and after".

Page 52, line 19, delete "(c)" and insert "(d)".

Page 52, line 22, delete "(d)" and insert "(e)".

Page 52, line 26, delete "(b)." and insert "(c)".

Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 26, 2006.)

ORENTLICHER

Upon request of Representatives Orentlicher and Stilwell, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 118: yeas 46, nays 51. Motion failed.

#### HOUSE MOTION (Amendment 1008-29)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 44, between lines 18 and 19, begin a new paragraph and insert:

#### "Chapter 14. Prohibited State Action

**Sec. 1. As used in this chapter, "state agency" refers to the authority and the department.**

**Sec. 2. A state agency may not loan, grant, or transfer any money that is:**

- (1) received from the United States Department of Transportation or another federal agency; and
  - (2) known as federal aid;
- to an operator for the operator's use under this article."**

Page 48, line 1, delete "federal, state," and insert "state".

Page 48, line 10, delete "the federal government,".

Page 48, line 11, delete "federal government, the state," and insert "state".

Page 59, line 14, delete "the federal".

Page 59, delete line 15.

Page 59, line 16, delete "government, or".

Page 63, line 23, delete "federal, state," and insert "state".

Page 63, line 28, delete "federal, state," and insert "state".

Page 63, line 34, delete "local, state, or federal" and insert "local or state".

Page 63, line 35, delete "local, state, or" and insert "local or state".

Page 63, line 36, delete "federal".

Page 63, line 40, delete "the federal, state," and insert "state".

Page 63, line 41, delete "the federal, state," and insert "state".

Page 65, delete lines 40 through 41.

Page 65, line 42, delete "(3)" and insert "(2)".

Page 66, line 2, delete "(4)" and insert "(3)".

Page 69, between lines 41 and 42, begin a new paragraph and insert:

#### "Chapter 17. Prohibited State Action

**Sec. 1. Notwithstanding any other law, money that is:**

- (1) received from the United States Department of Transportation or other federal agency; and
  - (2) known as federal aid;
- may not be used to develop a qualifying project under this article."**

(Reference is to HB 1008 as printed January 26, 2008.)

V. SMITH

Upon request of Representatives V. Smith and Stilwell, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 119: yeas 44, nays 51. Motion failed.

#### HOUSE MOTION (Amendment 1008-27)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 43, between lines 33 and 34, begin a new paragraph and insert:

**"Sec. 4. As used in this chapter, "contract" refers only to the following contracts:**

- (1) A contract with the authority or operator:

- (A) that qualifies as a major procurement; or

- (B) is for auditing services;

**related to a public-private agreement or a project.**

- (2) A contract with a person that has a contract with the authority or an operator:

- (A) that qualifies as a major procurement; or

- (B) is for auditing services;

**related to a public-private agreement or a project.**

**Sec. 5. As used in this chapter, "contractor" means a person that has a contract with:**

- (1) the authority or an operator; or

- (2) a person that has a contract with the authority or an operator.

**Sec. 6. As used in this chapter, "major procurement" means a contract that provides for payments to any party over the term of the contract of at least one million dollars (\$1,000,000) in return for property or services, or both."**

Page 43, line 34, delete "Sec. 4." and insert "Sec. 7.".

Page 43, line 40, delete "Sec. 5." and insert "Sec. 8.".

Page 44, line 6, delete "Sec. 6." and insert "Sec. 9.".

Page 44, line 9, delete "Sec. 7." and insert "Sec. 10.".

Page 44, between lines 16 and 17, begin a new paragraph and insert:

**"Sec. 11. A person is considered to have made a contribution under this section if a contribution is made by any of the following:**

- (1) The person.

- (2) An officer of the person.

- (3) A political action committee of the person.

**Sec. 12. A contractor, an officer of a contractor, or a political action committee of a contractor may not make a contribution to a candidate or a committee:**

- (1) while the contract is in effect; and

- (2) during the three (3) years following the final expiration or termination of the contract."

Page 44, line 17, delete "Sec. 8." and insert "Sec. 13.".

Page 69, between lines 14 and 15, begin a new paragraph and insert:

**"Sec. 4. As used in this chapter, "contract" refers only to the following contracts:**

- (1) A contract with the authority:

- (A) that qualifies as a major procurement; or

- (B) is for auditing services;

**related to a public-private agreement or a project.**

- (2) A contract with a person that has a contract with the authority:

- (A) that qualifies as a major procurement; or

- (B) is for auditing services;

**related to a public-private agreement or a project.**

**Sec. 5. As used in this chapter, "contractor" means a person that has a contract with:**

- (1) the authority; or

- (2) a person that has a contract with the authority.

**Sec. 6. As used in this chapter, "major procurement" means a contract that provides for payments to any party over the term**

of the contract of at least one million dollars (\$1,000,000) in return for property or services, or both."

Page 69, line 15, delete "Sec. 4." and insert "Sec. 7."

Page 69, line 21, delete "Sec. 5." and insert "Sec. 8."

Page 69, line 29, delete "Sec. 6." and insert "Sec. 9."

Page 69, line 32, delete "Sec. 7." and insert "Sec. 10."

Page 69, between lines 39 and 40, begin a new paragraph and insert:

"Sec. 11. A person is considered to have made a contribution under this section if a contribution is made by any of the following:

(1) The person.

(2) An officer of the person.

(3) A political action committee of the person.

Sec. 12. A contractor, an officer of a contractor, or a political action committee of a contractor may not make a contribution to a candidate or a committee:

(1) while the contract is in effect; and

(2) during the three (3) years following the final expiration or termination of the contract."

Page 69, line 40, delete "Sec. 8." and insert "Sec. 13."

(Reference is to HB 1008 as printed January 26, 2006.)

WELCH

Upon request of Representatives Welch and Dobis, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 120: yeas 46, nays 51. Motion failed.

#### HOUSE MOTION (Amendment 1008-17)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 43, line 18, after "Prohibited" insert "Gifts and".

Page 44, between lines 16 and 17, begin a new paragraph and insert:

"Sec. 8. (a) This section applies to a gift that the state, including the department of transportation, or the authority would otherwise be permitted to accept under any of the following:

(1) IC 8-14-14-5.

(2) IC 8-15-2-5.

(3) IC 8-15-3-21.

(4) This article, including IC 8-15.5-11-5.

(5) IC 8-15.7.

(b) An offeror, an officer of an offeror, a person with an ownership interest in an offeror, or another person that makes an offer to enter into a contract with:

(1) the authority;

(2) the state (including the department of transportation);

or

(3) an operator;

related to a project may not make a gift to the state or the authority during a period of one (1) year immediately preceding the date that the offeror or other person submits a proposal for a public-private agreement under this article.

(c) An operator, an officer of an operator, a person with an ownership interest in an operator, or another person that enters into a contract with:

(1) the authority;

(2) the state (including the department of transportation);

or

(3) an operator;

related to a project may not make a gift to the state or the authority during a period of one (1) year immediately following the date that a public-private agreement or contract terminates."

Page 44, line 17, delete "8." and insert "9."

Page 68, line 41, after "Prohibited" insert "Gifts and".

Page 69, between lines 39 and 40, begin a new paragraph and insert:

"Sec. 8. (a) This section applies to a gift that the state, including the department of transportation, or the authority would otherwise be permitted to accept under any of the following:

(1) IC 8-14-14-5.

(2) IC 8-15-2-5.

(3) IC 8-15-3-21.

(4) IC 8-15.5, including IC 8-15.5-11-5.

(5) This article.

(b) An offeror, an officer of an offeror, a person with an ownership interest in an offeror, or another person that makes an offer to enter into a contract with:

(1) the authority;

(2) the state (including the department of transportation);

or

(3) an operator;

related to a project may not make a gift to the state or the authority during a period of one (1) year immediately preceding the date that the offeror or other person submits a proposal for a public-private agreement under this article.

(c) An operator, an officer of an operator, a person with an ownership interest in an operator, or another person that enters into a contract with:

(1) the authority;

(2) the state (including the department of transportation);

or

(3) an operator;

related to a project may not make a gift to the state or the authority during a period of one (1) year immediately following the date that a public-private agreement or contract terminates."

Page 69, line 40, delete "8." and insert "9."

(Reference is to HB 1008 as printed January 26, 2006.)

ORENTLICHER

Upon request of Representatives Orentlicher and Bauer, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 121: yeas 46, nays 51. Motion failed.

#### HOUSE MOTION (Amendment 1008-25)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 34, line 1, delete "standards." and insert "standards, including all procedures required under the National Environmental Policy Act and by the United States Department of Transportation, Federal Highway Administration, for projects of a similar nature."

Page 34, delete lines 39 through 42.

Page 62, line 9, delete "standards." and insert "standards, including all procedures required under the National Environmental Policy Act and by the United States Department of Transportation, Federal Highway Administration, for projects of a similar nature."

Page 62, delete lines 37 through 39.

(Reference is to HB 1008 as printed January 26, 2006.)

AVERY

Upon request of Representatives Avery and Stilwell, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 122: yeas 46, nays 51. Motion failed.

#### HOUSE MOTION (Amendment 1008-30)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 31, between lines 9 and 10, begin a new paragraph and insert:

"(c) A public-private agreement that is executed under this chapter is valid for the lesser of:

(1) four (4) years; or

(2) the time remaining in the term of office of the governor who approved the public-private agreement under subsection (b).

A public-private agreement executed under this chapter expires on the last day of the approving governor's term of office unless the governor renews the public-private agreement under this subsection. Except as provided in subsection (d), a public-private

agreement that is renewed by the governor expires on the last day of the governor's subsequent term of office.

(d) The following apply if a public-private agreement is renewed by a governor who will not serve another term of office:

(1) The renewal must be ratified by the governor-elect.

(2) The renewed public-private agreement expires on the last day of the governor-elect's first term of office."

Page 31, line 13, delete "may not exceed ninety-nine (99) years." and insert "comply with the requirements of section 1(c) and 1(d) of this chapter."

Page 52, between lines 26 and 27, begin a new paragraph and insert:

"(e) A public-private agreement that is executed under this chapter is valid for the lesser of:

(1) four (4) years; or

(2) the time remaining in the term of office of the governor who designated the successful offeror under subsection (b).

A public-private agreement executed under this chapter expires on the last day of the designating governor's term of office unless the governor renews the public-private agreement under this subsection. Except as provided in subsection (f), a public-private agreement that is renewed by the governor expires on the last day of the governor's subsequent term of office.

(f) The following apply if a public-private agreement is renewed by a governor who will not serve another term of office:

(1) The renewal must be ratified by the governor-elect.

(2) The renewed public-private agreement expires on the last day of the governor-elect's first term of office."

Page 67, line 24, after "1." insert "The original term of a public-private agreement executed under this article must comply with the requirements of IC 8-15.7-4-3(e)."

Page 67, line 24, after "The" insert "entire".

(Reference is to HB 1008 as printed January 26, 2008.)

V. SMITH

After discussion, Representative V. Smith withdrew the motion.

#### HOUSE MOTION (Amendment 1008-9)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 30, line 18, after "governor" insert ", the general assembly in an electronic format under IC 5-14-6,".

Page 30, line 19, delete "." and insert "before March 7, 2006."

Page 30, between lines 19 and 20, begin a new paragraph and insert:

"(b) Upon receipt of the determination under subsection (a), a determination review committee is established. The members of the determination review committee consist of one (1) member jointly appointed by the leader of the political party with the second largest number of members in the house of representatives and the leader of the political party with the second largest number of members in the senate, one (1) member appointed by the governor, and one (1) member appointed by the other members of the determination review committee. The designation review committee shall operate under the policies governing study committees adopted by the legislative council. The affirmative votes of a majority of the voting members appointed to the designation review committee are required for the designation review committee to take action on any measure, including final reports. The designation review committee shall evaluate the proposed project, the proposed public-private agreement, and the proposed operator. The authority and all state agencies shall cooperate with the designation review committee and provide the designation review committee with the information that the designation review committee determines is necessary to carry out the analysis. The analysis must cover financial and all other benefits and costs of the proposed public-private agreement with the proposed operator. The designation review committee shall submit the designation review committee's findings and recommendations to the general assembly in an electronic format under IC 5-14-6, the governor, and the members of the budget committee while the general assembly is in session before a time that is at least seventy-two

(72) hours before the general assembly adjourns sine die in the session that convened on November 22, 2005. The recommendation must be accompanied by sufficient supporting documentation to permit a reader to identify the designation review committee's assumptions and verify the accuracy and completeness of the designation review committee's analysis."

Page 30, line 20, delete "(b) After" and insert "(c) If the designation review committee has submitted a recommendation to the general assembly, the budget committee, and the governor before the time required under subsection (b), subject to any law enacted in the legislative session in which the designation review committee's recommendation is submitted to the general assembly under subsection (b), and after".

Page 30, line 28, delete "(c)" and insert "(d)".

(Reference is to HB 1008 as printed January 26, 2006.)

ORENTLICHER

Upon request of Representatives Orentlicher and Bauer, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 123: yeas 46, nays 51. Motion failed.

#### HOUSE MOTION (Amendment 1008-36)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 18, line 37, delete "The" and insert "Except as otherwise provided by IC 8-15.7-10-3, the".

Page 48, line 27, delete "The" and insert "Except as otherwise provided by this article, the".

Page 66, between lines 33 and 34, begin a new paragraph and insert:

"Sec. 3. (a) As used in this section, "condemn" means any person authorized by Indiana law to exercise the power of eminent domain.

(b) A condemnor may not exercise the power of eminent domain to acquire real property with respect to a project under this article:

(1) from a private entity; and

(2) with the intent of transferring ownership or control of the real property to another private entity, including a private entity that is a party to a public-private agreement."

Page 68, line 20, delete "The" and insert "Except as otherwise provided by this article, the".

Page 68, line 23, delete "The" and insert "Except as otherwise provided by this article, the".

Page 71, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 36. IC 8-23-7-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. The department may not exercise the power of eminent domain to acquire real property with respect to a state highway:

(1) from a private entity; and

(2) with the intent of transferring ownership or control of the real property to another private entity, including a private entity that is a party to a public-private agreement."

Page 78, between lines 6 and 7, begin a new paragraph and insert: "SECTION 46. [EFFECTIVE UPON PASSAGE] Except as provided in IC 8-23-7-13 and IC 8-23-7-17, the department may not transfer the ownership or control of real property acquired for a state highway before the effective date of this SECTION to another private entity, including a private entity that is a party to a public-private agreement."

Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 26, 2006.)

PIERCE

Upon request of Representatives Pierce and Stilwell, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 124: yeas 47, nays 51. Motion failed.

HOUSE MOTION  
(Amendment 1008-19)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 78, between lines 6 and 7, begin a new paragraph and insert:  
"SECTION 44. [EFFECTIVE JULY 1, 2006] (a) **There is appropriated to the auditor of state sixteen million one hundred fifteen thousand three hundred sixty dollars (\$16,115,360) from the major moves construction fund established by IC 8-14-14, as added by this act. If the balance of the major moves construction fund is insufficient to fully fund the distributions required under this SECTION, money is appropriated from the state general fund in the amount necessary to fully fund the distributions required under this SECTION. The appropriations made under this subsection are for the period beginning July 1, 2006, and ending June 30, 2007.**

(b) **Notwithstanding any other law, the auditor of state shall distribute the money appropriated under this SECTION as follows:**

- (1) **Sixty-eight and one-tenth percent (68.1%) to the counties in the manner specified in IC 8-14-1-3(3).**
- (2) **Thirty-one and nine-tenths percent (31.9%) to the cities and towns in the manner specified in IC 8-14-1-3(1).**

(c) **A county, city, or town that receives a distribution under this SECTION must use the money for the purposes specified in IC 8-14-1-3.**

(d) **This SECTION expires June 30, 2007."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 26, 2006.)

CRAWFORD

Representative Espich rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill.

Representative Crawford withdrew the motion.

HOUSE MOTION  
(Amendment 1397-31)

Mr. Speaker: I move that House Bill 1397 be amended to read as follows:

Page 25, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 32. IC 8-15-3-36 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 36. (a) As used in this section, "toll collection facility" means any booth or collectors' house where drivers are required to pay tolls.**

(b) **A United States flag shall be displayed at each toll collection facility located on:**

- (1) **a tollway (as defined in section 7 of this chapter);**
- (2) **a toll road project (as defined in IC 8-15-2-4(4)); and**
- (3) **a qualifying project (as defined in IC 8-15.7-2-15).**

(c) **The department shall adopt rules under IC 4-22-2 for the proper care, custody, and display of the United States flag at each toll collection facility."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 26, 2006.)

STILWELL

Upon request of Representatives Stilwell and Dobis, the Speaker ordered the roll of the House to be called. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 125: yeas 98, nays 0. Motion prevailed. The bill was ordered engrossed.

### House Bill 1093

Representative Dobis called down House Bill 1093 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1093-1)

Mr. Speaker: I move that House Bill 1093 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning school safety.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-20-8-8, AS ADDED BY P.L.1-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. The report must include the following information:

- (1) Student enrollment.
- (2) Graduation rate (as defined in IC 20-26-13-6).
- (3) Attendance rate.
- (4) The following test scores, including the number and percentage of students meeting academic standards:
  - (A) ISTEP program test scores.
  - (B) Scores for assessments under IC 20-32-5-21, if appropriate.
  - (C) For a freeway school, scores on a locally adopted assessment program, if appropriate.
- (5) Average class size.
- (6) The number and percentage of students in the following groups or programs:
  - (A) Alternative education, if offered.
  - (B) Vocational education.
  - (C) Special education.
  - (D) Gifted or talented, if offered.
  - (E) Remediation.
  - (F) Limited English language proficiency.
  - (G) Students receiving free or reduced price lunch under the national school lunch program.
- (7) Advanced placement, including the following:
  - (A) For advanced placement tests, the percentage of students:
    - (i) scoring three (3), four (4), and five (5); and
    - (ii) taking the test.
  - (B) For the Scholastic Aptitude Test:
    - (i) test scores for all students taking the test;
    - (ii) test scores for students completing the academic honors diploma program; and
    - (iii) the percentage of students taking the test.
- (8) Course completion, including the number and percentage of students completing the following programs:
  - (A) Academic honors diploma.
  - (B) Core 40 curriculum.
  - (C) Vocational programs.
- (9) The percentage of grade 8 students enrolled in algebra I.
- (10) The percentage of graduates who pursue higher education.
- (11) School safety, including:
  - (A) the number of students receiving suspension or expulsion for the possession of alcohol, drugs, or weapons; **and**
  - (B) **the number of incidents reported under IC 20-33-9.**
- (12) Financial information and various school cost factors, including the following:
  - (A) Expenditures per pupil.
  - (B) Average teacher salary.
  - (C) Remediation funding.
- (13) Technology accessibility and use of technology in instruction.
- (14) Interdistrict and intradistrict student mobility rates, if that information is available.
- (15) The number and percentage of each of the following within the school corporation:
  - (A) Teachers who are certificated employees (as defined in IC 20-29-2-4).
  - (B) Teachers who teach the subject area for which the teacher is certified and holds a license.
  - (C) Teachers with national board certification.
- (16) The percentage of grade 3 students reading at grade 3 level.
- (17) The number of students expelled, including the number participating in other recognized education programs during their expulsion.
- (18) Chronic absenteeism, which includes the number of students who have been absent more than ten (10) days from school within a school year without being excused.
- (19) Other indicators of performance as recommended by the education roundtable under IC 20-19-4.

SECTION 2. IC 20-33-9-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.3. As used in this chapter, "battery" refers to battery under IC 35-42-2-1.**

SECTION 3. IC 20-33-9-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.5. As used in this chapter, "harassment" refers to harassment under IC 35-45-2-2.**

SECTION 4. IC 20-33-9-10, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 10.** In addition to any other duty to report arising under this article, an individual who has reason to believe that a school employee:

- (1) has received a threat; ~~or~~
- (2) is the victim of intimidation;
- (3) **is the victim of battery; or**
- (4) **is the victim of harassment;**

shall report that information as required by this chapter.

SECTION 5. IC 20-33-9-11, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 11.** (a) If an individual who is required to make a report under this chapter is a member of the staff of a school, the individual shall make the report by immediately notifying the principal of the school that a school employee may have received a threat or may be the victim of intimidation, **battery, or harassment.**

(b) An individual who receives a report under subsection (a) shall immediately make a report or cause a report to be made under section 13 of this chapter.

SECTION 6. IC 20-33-9-12, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 12.** This chapter does not relieve an individual of the obligation to report a threat, ~~or~~ intimidation, **a battery, or harassment** on the individual's own behalf, unless a report has already been made to the best of the individual's belief.

SECTION 7. IC 20-33-9-13, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13.** An individual who has a duty under sections 10 through 12 of this chapter to report that a school employee may have received a threat or may be the victim of intimidation, **battery, or harassment** shall immediately make an oral report to the local law enforcement agency.

SECTION 8. IC 20-33-9-14, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 14.** Except as provided in section 15 of this chapter, an individual, other than a person accused of making a threat ~~or~~ **against a school employee**, intimidating a school employee, **committing a battery against a school employee, or harassing a school employee**, who:

- (1) makes, or causes to be made, a report under this chapter; or
- (2) participates in any judicial proceeding or other proceeding:
  - (A) resulting from a report under this chapter; or
  - (B) relating to the subject matter of the report;

is immune from any civil or criminal liability that might otherwise be imposed because of such actions."

Renumber all SECTIONS consecutively.

(Reference is to HB 1093 as printed January 26, 2006.)

KOCH

Motion prevailed. The bill was ordered engrossed.

### House Bill 1097

Representative Frizzell called down House Bill 1097 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1097-3)

Mr. Speaker: I move that House Bill 1097 be amended to read as follows:

Page 5, line 25, after "affiliate" insert "**(as defined in IC 27-1-12-2)**".

Page 5, line 27, after "affiliate" insert "**(as defined in IC 27-1-12-2)**".

Page 5, between lines 29 and 30, begin a new line block indented and insert:

**"(3) A limited service health maintenance organization, or an affiliate (as defined in IC 27-1-12-2) of a limited service health maintenance organization, that is regulated under this title."**

Page 8, line 13, delete "marketing organization" and insert **"provider or a business entity owned by at least one (1) provider"**.

Page 8, line 13, after "that" insert ":

**(1)".**

Page 8, line 13, delete "wholly".

Page 8, line 13, delete "an" and insert **"one (1) or more providers; and"**.

Page 8, delete line 14, begin a new line block indented and insert:

**"(2) contracts with employers or health plans to provide medical services;"**.

Page 8, line 15, delete "of authority under this title".

Page 8, line 15, beginning with "is" begin a new line blocked left.

Page 9, between lines 22 and 23, begin a new line block indented and insert:

**"(6) List, market, promote, or advertise a provider as a program provider without the express written consent of the provider."**

(Reference is to HB 1097 as printed January 26, 2006.)

FRIZZELL

Motion prevailed. The bill was ordered engrossed.

### House Bill 1099

Representative Frizzell called down House Bill 1099 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1099-3)

Mr. Speaker: I move that House Bill 1099 be amended to read as follows:

Page 1, delete lines 1 through 9.

Page 3, between lines 14 and 15, begin a new paragraph and insert: **"Department" means the department of homeland security established under IC 10-19-2-1."**

Page 4, reset in roman line 36.

Page 4, line 37, reset in roman "commerce selling fireworks".

Page 4, line 37, after "fireworks" insert ".".

Page 6, line 28, delete ":".

Page 6, line 29, delete "(1)".

Page 6, line 29, delete ";" and insert ".".

Page 6, run in lines 28 through 29.

Page 6, delete lines 30 through 32, begin a new paragraph and insert:

**"SECTION 2. IC 22-11-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The fire prevention and building safety commission ~~may~~ shall:**

- (1) adopt rules under IC 4-22-2 for the granting of permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals; and
- (2) establish by rule the fee for the permit, which shall be paid into the fire and building services fund created under IC 22-12-6-1.

(b) The application for a permit required under subsection (a) must:

- (1) name a competent operator who is to officiate at the display;
- (2) set forth a brief resume of the operator's experience;
- (3) be made in writing; and
- (4) be received with the applicable fee by the ~~office of the state fire marshal~~ **division of fire and building safety** at least five (5) business days before the display.

No operator who has a prior conviction for violating this chapter may operate any display for one (1) year after the conviction.

(c) Every display shall be handled by a qualified operator approved by the chief of the fire department of the municipality in which the display is to be held. A display shall be ~~so~~ located, discharged, or fired as, in the opinion of:

(1) the chief of the fire department of the city or town in which the display is to be held; or  
 (2) the township fire chief or the fire chief of the municipality nearest the site proposed, in the case of a display to be held outside of the corporate limits of any city or town;  
 after proper inspection, is not hazardous to property or person.  
 (d) A permit granted under this section is not transferable.  
 (e) A denial of a permit by a municipality shall be issued in writing before the date of the display.

(f) A person who possesses, transports, or delivers may not possess, transport, or deliver special fireworks, except as authorized under this section. ~~commits a Class A misdemeanor.~~

Page 6, delete line 42.

Page 7, delete line 1.

Page 7, line 2, delete "discharge location;" and insert "trained and experienced in using consumer fireworks;"

Page 8, delete lines 9 through 42, begin a new paragraph and insert:

"SECTION 4. IC 22-11-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Nothing in this chapter shall be construed to prohibit:

(1) any resident wholesaler, manufacturer, importer, or distributor from selling:

(A) at wholesale fireworks not prohibited by this chapter; or  
 (B) ~~consumer fireworks not approved for sale in Indiana if they are to be shipped directly out of state within five (5) days of the date of sale; used:~~

(i) on the property of the purchaser;  
 (ii) on the property of another who has given permission to use the consumer fireworks; or  
 (iii) at a special discharge location as set forth in section 3.5 of this chapter;

(2) the use of fireworks by railroads or other transportation agencies for signal purposes or illumination;

(3) the sale or use of blank cartridges for:

(A) a show or theater;  
 (B) signal or ceremonial purposes in athletics or sports; or  
 (C) use by military organizations;

(4) the intrastate sale of fireworks not approved for sale in Indiana between interstate wholesalers;

(5) the possession, sale, or disposal of fireworks, incidental to the public display of Class B fireworks, by wholesalers or other persons who possess a permit to possess, store, and sell Class B explosives from the Bureau of Alcohol, Tobacco, and Firearms and Explosives of the United States Department of the Treasury; Justice; or

(6) the use of indoor pyrotechnics special effects material before an indoor or outdoor proximate audience.

(b) For the purposes of this section, a resident wholesaler, importer, or distributor, is a person who:

(1) is a resident of Indiana;  
 (2) possesses for resale ~~common~~ fireworks approved or not approved for sale in Indiana;  
 (3) is engaged in the interstate sale of ~~common~~ fireworks described in subdivision (2) as an essential part of a business that is located in a permanent structure and is open at least six (6) months each year; and  
 (4) ~~sells common fireworks described in subdivision (2) only to purchasers who provide a written and signed assurance that the fireworks are to be shipped out of Indiana within five (5) days of the date of sale; and~~  
 (5) (4) has possession of a certificate of compliance issued by the state fire marshal under section 5 of this chapter.

(c) ~~A purchaser may not provide a written and signed assurance that the fireworks purchased are to be shipped out of Indiana and then sell or use them in Indiana.~~

SECTION 5. IC 22-11-14-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) A retailer may sell consumer fireworks from a tent under the following conditions:

(1) The tent may not be larger than one thousand five hundred (1,500) square feet.

(2) There may be only one (1) tent for each registration granted under section 5(b)(3) of this chapter.

(3) The tent may not be located closer than one hundred (100) feet from a permanent structure.

(4) A vehicle may not be parked closer than twenty (20) feet from the edge of the tent.

(5) The tent must be fire retardant.

(6) The sales site must comply with all applicable local zoning and land use rules.

(7) Sales of fireworks may be made from the tent for not more than forty-five (45) days in a year.

(8) The gross weight of consumer fireworks in a tent, other than those set forth in section 8(a) of this chapter, may not exceed one thousand five hundred (1,500) pounds of product.

(9) A retailer that legally operated a tent with a registration in 2005 may continue operation in a tent in 2006 and the following years. A registration under section 5(b)(3) of this chapter is required for operation in 2006 and following years.

(10) The retailer holds a valid registration under section 5(b)(3) of this chapter.

(b) This subsection does not apply to a retailer of fireworks who conducts operations from a structure that complies with the requirements for an H-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission. A retailer may sell consumer fireworks from a structure under the following conditions:

(1) The structure must be a Class 1 structure used for the sale and storage of fireworks 1.4G (Class C common fireworks).

(2) The sales site must comply with all applicable local zoning and land use rules.

(3) The gross weight of consumer fireworks in the structure, other than those set forth in section 8(a) of this chapter, may not exceed one thousand five hundred (1,500) pounds of product.

(4) The structure may not exceed fifteen thousand (15,000) square feet in total area unless the structure was in existence and was registered under section 5(b)(3) of this chapter in 2005.

(5) The retailer holds a valid registration under section 5(b)(3) of this chapter.

(6) A retailer that legally operated from a structure with a registration in 2005 may continue in operation in the structure in 2006 and the following years. A registration under section 5(b)(3) of this chapter is required for operation in 2006 and following years.

(c) The state fire marshal or a member of the division of fire and building safety staff shall, under section 9 of this chapter, inspect tents and structures in which common fireworks are sold.

SECTION 6. IC 22-11-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The state fire marshal shall remove at the expense of the owner, all stocks of fireworks or combustibles possessed, transported, or delivered in violation of this chapter.

(b) The state fire marshal shall stop the shipments and sale of fireworks, novelties, and trick noisemakers unless, prior to shipment into this state for sale, the manufacturer, wholesaler, importer, or distributor of the fireworks, novelties, and trick noisemakers submits to the state fire marshal:

(1) a complete description of each item proposed to be shipped into Indiana;

(2) a written certification that the items are manufactured in accordance with section 1 of this chapter; and

(3) an annual registration fee of ~~one thousand seven hundred fifty dollars (\$1,000)~~ (\$750) for the first location and an additional registration fee of seven hundred fifty dollars (\$750) for each other location from which consumer fireworks are to be offered for sale for use at a special discharge location. The registration fee shall be deposited in the fire and building services fund as set forth in IC 22-12-6-1(c).

If upon inspection the state fire marshal finds that this chapter has been complied with, an annual certificate of compliance shall be issued to the manufacturer, wholesaler, importer, or distributor. An annual certificate of compliance **may not be applied for after June 15 of a year and** expires December 31 of the year ~~during in~~ which the certificate is issued. Each manufacturer, wholesaler, importer, or distributor must obtain a certificate of compliance. The certificate is not transferable. ~~except that~~ A retailer that offers the items for sale to the public is entitled to receive a certified copy of the certificate from the manufacturer, wholesaler, importer, or distributor from which the retailer purchases the items. A certified copy of the certificate of compliance must be posted in each location where the items are offered for sale to the public. If upon inspection the state fire marshal finds that this chapter has not been complied with, the state fire marshal shall refuse to issue a certificate of compliance and state the reasons for the refusal. A copy of the order denying the issuance of a certificate of compliance and the reasons shall be forwarded to the manufacturer, wholesaler, importer, or distributor. The state fire marshal may revoke any certificate of compliance issued to any manufacturer, wholesaler, importer, or distributor if the holder of the certificate has violated this chapter.

(c) All fireworks, novelties, and trick noisemakers shipped into Indiana, or manufactured and sold in Indiana, must have distinctly and durably painted, stamped, printed, or marked on the package, box, or container in which the items are enclosed the exact number of pieces in the container.

(d) It is unlawful for a manufacturer, wholesaler, importer, or distributor to sell at wholesale, offer to sell at wholesale, or ship or cause to be shipped into Indiana fireworks, novelties, or trick noisemakers unless the manufacturer, wholesaler, importer, or distributor has been issued and holds a valid certificate of compliance issued under subsection (b). This subsection applies to nonresidents and residents of Indiana.

SECTION 7. IC 22-11-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A person who violates ~~section 4(c); section 2(f), 4.5, 5(c), 5(d), 7, or 8(a), 8(c), 8(d), or 10~~ of this chapter commits a Class A misdemeanor.

(b) A person who ignites, discharges, or uses consumer fireworks other than those described in section 8(a) of this chapter at a site other than:

- (1) a special discharge location;
- (2) the property of the person; or
- (3) the property of another who has given permission to use the consumer fireworks;

commits a Class C infraction. However, if a person commits an offense under this subsection not later than five (5) years after the date of the commission of a prior offense, the person commits a Class B infraction.

(c) A person commits a Class B misdemeanor if the person recklessly, knowingly, or intentionally uses consumer fireworks other than those described in section 8(a) of this chapter and the violation causes harm to the property of a person.

(d) A person commits a Class A misdemeanor if the person recklessly, knowingly, or intentionally uses consumer fireworks other than those described in section 8(a) of this chapter and the violation results in serious bodily injury to a person.

(e) A person commits a Class D felony if the person recklessly, knowingly, or intentionally uses consumer fireworks other than those described in section 8(a) of this chapter and the violation results in the death of a person.

(f) A person commits a Class D felony if the person knowingly fails to collect or remit the public safety fees due under section 14 of this chapter to the state.

SECTION 8. IC 22-11-14-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A person shall not sell at retail, or offer for sale at retail, any consumer fireworks, novelties, or trick noisemakers to a person less than **eighteen (18) years of age** other than the following:

- (1) Dipped sticks or wire sparklers. However, total pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.
- (2) Cylindrical fountains.

- (3) Cone fountains.
- (4) Illuminating torches.
- (5) Wheels.
- (6) Ground spinners.
- (7) Flitter sparklers.
- (8) Snakes or glow worms.
- (9) Smoke devices.
- (10) Trick noisemakers, which include:
  - (A) Party poppers.
  - (B) Booby traps.
  - (C) Snappers.
  - (D) Trick matches.
  - (E) Cigarette loads.
  - (F) Auto burglar alarms.

(b) A retailer or wholesaler of consumer fireworks may sell consumer fireworks to a person at least eighteen (18) years of age.

(c) A retailer or wholesaler of consumer fireworks other than those listed in subsection (a) may not knowingly or intentionally fail to:

- (1) request photographic identification of a purchaser who appears to be less than twenty-five (25) years of age; or
- (2) record the following information regarding a sale:
  - (A) The purchaser's name.
  - (B) The purchaser's address.
  - (C) The date of the sale.
  - (D) The age of the purchaser.

The seller shall keep the record of the sale for not less than one (1) year and shall make the record available to the state fire marshal upon request.

(d) An individual who sells consumer fireworks other than those listed in subsection (a) must be at least eighteen (18) years of age.

SECTION 9. IC 22-11-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. ~~(a)~~ Each interstate wholesaler shall keep a record of each sale of special fireworks. ~~not approved for sale in Indiana.~~ This record must include:

- (1) the purchaser's name;
- (2) the purchaser's address; and
- (3) the date of the sale.

These records shall be kept for three (3) years and be available for inspection by the fire marshal.

(b) Each resident wholesaler shall post in a prominent location in the wholesaler's place of business a sign that reads as follows:

"Under Indiana law, a resident wholesaler of fireworks may sell fireworks not approved for sale in Indiana only to other resident wholesalers and to purchasers who provide a written and signed assurance that the fireworks are to be shipped out of Indiana within five (5) days of the date of sale. A purchaser who provides a written and signed assurance that fireworks purchased are to be shipped out of Indiana within five (5) days of the date of sale and who then sells the fireworks in Indiana or uses them in Indiana commits a Class A misdemeanor, which is punishable by imprisonment for up to one (1) year and a fine of up to five thousand dollars (\$5,000)."

The state fire marshal shall provide interstate wholesalers with signs for the purposes of this subsection.

SECTION 10. IC 22-11-14-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 11. (a) A user fee, known as the public safety fee, is imposed on retail transactions made in Indiana of consumer fireworks.

(b) The person who acquires consumer fireworks in a retail transaction is liable for the public safety fee on the transaction and, except as otherwise provided in this chapter, shall pay the public safety fee to the retailer as a separate added amount to the consideration in the transaction. The retailer shall collect the public safety fee as agent for the state.

(c) The public safety fee shall be paid to the department to be used for the following purposes:

- (1) The provision of funds for disaster relief for all Indiana state and local governments under IC 10-19-4-2.

(2) The development and provision of training programs for public safety service providers under IC 10-19-9-3.

(3) The establishment and conduct of advanced training programs in public safety and homeland security subjects under IC 10-19-9-4.

The executive director of the department appointed under IC 10-19-3-1 shall determine the distribution of the funds received by the department from the public safety fee.

(d) The fire prevention and building safety commission shall adopt rules under IC 4-22-2 necessary for the administration of the collection and distribution of the public safety fee monies from retailers as described in subsections (b) and (c) and in section 13 of this chapter.

SECTION 11. IC 22-11-14-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 12. (a) The public safety fee is measured by the gross retail income received by a retailer in a retail unitary transaction of consumer fireworks and is imposed at the following rates:

PUBLIC SAFETY FEE	GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION		
\$ 0		less than	\$0.25
\$ 0.01	at least \$ 0.25	but less than	\$0.50
\$ 0.02	at least \$ 0.50	but less than	\$0.75
\$ 0.03	at least \$ 0.75	but less than	\$1.00
\$ 0.04	at least \$ 1.00		

On a retail unitary transaction in which the gross retail income received by the retail merchant is one dollar (\$1) or more, the public safety fee is four percent (4%) of that gross retail income.

(b) If the public safety fee, computed under subsection (a), results in a fraction of one-half cent (\$0.005) or more, the amount of the public safety fee shall be rounded to the next additional cent.

SECTION 12. IC 22-11-14-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 13. (a) A retailer liable for collecting the public safety fee from a purchaser shall file a return for each calendar month and pay the public safety fees that the retailer has collected during that month. A retailer shall file the retailer's return for a particular month with the department and make the retailer's payment of the public safety fees collected for that month to the department not more than thirty (30) days after the end of that month.

(b) Instead of the twelve (12) monthly reporting periods required by subsection (a), the department may permit a person to divide a year into a different number of reporting periods. The return and payment for each reporting period is due not more than twenty (20) days after the end of the period.

(c) Instead of the reporting periods required under subsection (a), the department may permit a retailer to report and pay the retailer's public safety fees for a period covering a calendar year, if the retailer's public safety fee liability for a calendar year does not exceed seventy-five dollars (\$75). A retailer reporting under this subsection must file the retailer's return and pay the retailer's public safety fee liability not later than the last day of January immediately following the close of the prior calendar year.

SECTION 13. IC 22-11-14-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 14. An individual who:

(1) is an individual retailer or is an employee, an officer, or a member of a corporate or partnership retailer; and

(2) has a duty to remit the public safety fee as described in section 11 of this chapter to the department of homeland security;

holds the public safety fees collected in trust for the state and is personally liable for the payment of the public safety fee money to the state.

SECTION 14. IC 22-11-14-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The fire prevention and

building safety commission shall adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 15. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 22-11-14-2(a), as amended by this act, IC 22-11-14-11(d), as added by this act, and IC 22-11-14-15, as added by this act, the fire prevention and building safety commission shall carry out the duties imposed upon it by IC 22-11-14-2(a), as amended by this act, IC 22-11-14-11(d), as added by this act, and IC 22-11-14-15, as added by this act, under interim written guidelines approved by the state fire marshal.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are last adopted under IC 22-11-14-2(a), as amended by this act, IC 22-11-14-11(d), as added by this act, and IC 22-11-14-15, as added by this act.

(2) December 31, 2007."

Delete pages 9 through 12.

Page 13, delete lines 1 through 32.

Renumber all SECTIONS consecutively.

(Reference is to HB 1099 as printed January 27, 2006.)

FRIZZELL

Motion prevailed. The bill was ordered engrossed.

## House Bill 1123

Representative Budak called down House Bill 1123 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 1123-1)

Mr. Speaker: I move that House Bill 1123 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-23-2.5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. (a) The commission has the sole authority to allocate money from the fund to arts providers in Indiana.

(b) Subject to other provisions of this chapter, when there is ~~fifty one~~ million dollars (~~\$50,000,000~~) (\$1,000,000) in the fund there is annually appropriated to the commission all interest and dividend earnings of the fund for projects that the commission designates to accomplish the purposes of the commission under IC 4-23-2.

(c) The commission may not use money from the fund to purchase land or structures."

Renumber all SECTIONS consecutively.

(Reference is to HB 1123 as printed January 26, 2006.)

KOCH

Representative Fry rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

HOUSE MOTION

(Amendment 1123-2)

Mr. Speaker: I move that House Bill 1123 be amended to read as follows:

Replace the effective dates in SECTIONS 1 through 6 with "[EFFECTIVE UPON PASSAGE]".

Page 2, line 13, delete "an emergency room nurse." and insert "a health care professional (as defined in IC 16-27-1-1) qualified in forensic evidence collection."

Page 2, line 20, delete "The members of the board shall elect a member to serve as" and insert "The executive director of the commission for women shall serve as chairperson of the board. The board shall meet at the call of the chairperson."

Page 2, delete line 21.

Page 2, line 35, after "meetings." insert "Any other funding for the board is paid at the discretion of the director of the office of management and budget."

Page 6, line 11, after "(a)" insert "As used in this SECTION, "board" means the sexual assault standards and certification board established by IC 4-23-25-11, as added by this act.

(b)".

Page 6, line 12, delete "sexual assault".

Page 6, line 13, delete "standards and certification".



Page 6, line 21, delete "(b)" and insert "(c)".

Page 6, line 22, delete "(c)" and insert "(d)".

Page 6, line 22, delete "sexual".

Page 6, line 23, delete "assault standards and certification".

Page 6, between lines 23 and 24, begin a new paragraph and insert"

**"(e) The first meeting of the board shall convene not later than October 1, 2006."**

Page 6, line 24, delete "(d)" and insert "(f)".

Page 6, after line 31, begin a new paragraph and insert:

**"SECTION 7. An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1123 as printed January 26, 2006.)

BUDAK

Motion prevailed. The bill was ordered engrossed.

## House Bill 1155

Representative Budak called down House Bill 1155 for second reading. The bill was read a second time by title.

### HOUSE MOTION (Amendment 1155-2)

Mr. Speaker: I move that House Bill 1155 be amended to read as follows:

Page 7, between lines 37 and 38, begin a new paragraph and insert:  
**"SECTION 3. IC 31-17-5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. If a court grants visitation rights under this chapter to a grandparent who is convicted of:**

**(1) a sex crime under IC 35-42-4; or**

**(2) a crime in any other jurisdiction the elements of which are substantially similar to the elements of a sex crime under IC 35-42-4;**

**the visitation with the grandparent must be supervised by an individual approved by both the custodial parent or guardian and the noncustodial parent."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1155 as printed January 27, 2006.)

BUDAK

Motion prevailed.

### HOUSE MOTION (Amendment 1155-1)

Mr. Speaker: I move that House Bill 1155 be amended to read as follows:

Page 7, line 7, after "person" insert ":

**(i)".**

Page 7, line 9, delete "or" and insert "**and**

**(ii) has a prior unrelated conviction for child molesting or an offense in another jurisdiction that is substantially similar to child molesting; or".**

Page 7, line 11, after "person" insert ":

**(i)".**

Page 7, line 13, after "offense;" insert "**and**

**(ii) has a prior unrelated conviction for child molesting or an offense in another jurisdiction that is substantially similar to child molesting;"**.

Page 9, line 31, after "location" insert "**, if applicable"**.

Page 10, between lines 9 and 10, begin a new paragraph and insert:  
**"SECTION 5. IC 35-50-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time he the person has earned for any of the following:**

**(1) A violation of one (1) or more rules of the department of correction.**

**(2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.**

**(3) A violation of one (1) or more rules or conditions of a community transition program.**

**(4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.**

**(5) If the person is an offender (as defined in IC 5-2-12-4) and refuses to participate in a sex offender treatment program specifically offered to the offender by the department of correction while the person is serving a period of incarceration with the department of correction.**

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, ~~he~~ **the person** may also be reassigned to Class II or Class III.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine his guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in section 4(c) of this chapter. The person may waive his right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored."

(Reference is to HB 1155 as printed January 27, 2006.)

BUDAK

Motion prevailed.

### HOUSE MOTION (Amendment 1155-6)

Mr. Speaker: I move that House Bill 1155 be amended to read as follows:

Page 10, after line 15, begin a new paragraph and insert:

**"SECTION 7. IC 35-48-4-16 IS REPEALED [EFFECTIVE JULY 1, 2006].**

**SECTION 8. [EFFECTIVE JULY 1, 2006] The repeal of IC 35-48-4-16 by this act applies only to offenses committed after June 30, 2006."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1155 as printed January 27, 2006.)

DAVIS

Representative Pelath rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 1155 a bill pending before the House.

After discussion, Representative Davis withdrew the motion.

### HOUSE MOTION (Amendment 1155-4)

Mr. Speaker: I move that House Bill 1155 be amended to read as follows:

Page 7, between lines 37 and 38, begin a new paragraph and insert:

**"(k) As a condition of parole, the parole board shall prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking.**

**SECTION 3. IC 35-38-2-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.6. (a) A condition of remaining on probation or parole after a conviction for stalking (IC 35-45-10-5) is that the person not reside within one thousand (1,000) feet of the residence of the victim of the stalking.**

**(b) A person:**

**(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the person intends to reside during the period of probation:**

**(A) at the time of sentencing if the person will be placed on probation without first being incarcerated; or**

**(B) before the person's release from incarceration if the person will be placed on probation after completing a term of incarceration; or**

**(2) who will be placed on parole shall provide the parole board with the address where the person intends to reside during the period of parole.**

**(c) A person, while on probation or parole, may not establish a new residence within one thousand (1,000) feet of the residence of the victim of the stalking unless the person first obtains a waiver from the:**

**(1) court, if the person is placed on probation; or**

(2) parole board, if the person is placed on parole; for the change of address under subsection (d).

(d) The court or parole board may waive the requirement set forth in subsection (c) only if the court or parole board, at a hearing at which the person is present and of which the prosecuting attorney has been notified, determines that:

- (1) the person is in compliance with all terms of the person's probation or parole; and
- (2) good cause exists to allow the person to reside within one thousand (1,000) feet of the residence of the victim of the stalking.

(e) If the court or parole board grants a waiver under subsection (d), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

(f) The address of the victim of the stalking is confidential even if the court or parole board grants a waiver under subsection (d).

SECTION 3. IC 35-40-6.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

#### Chapter 6.5. Stalker Registry

Sec. 1. As used in this chapter, "stalker" means a person convicted of stalking under IC 35-45-10-5.

Sec. 2. A prosecuting attorney may establish and maintain a stalker registry web site to inform the general public about the identity, location, and appearance of a stalker residing within the judicial circuit served by the prosecuting attorney. The web site may provide information about each stalker in the judicial circuit, including:

- (1) a photograph of the stalker; and
- (2) the home address of the stalker.

Sec. 3. The stalker web site may be funded from:

- (1) a grant from the criminal justice institute; or
- (2) any other source, subject to the approval of the county fiscal body.

Sec. 4. A stalker may be required to provide information for use by the stalker registry web site as a condition of probation or parole."

(Reference is to HB 1155 as printed January 27, 2006.)

THOMPSON

Motion prevailed.

#### HOUSE MOTION (Amendment 1155-5)

Mr. Speaker: I move that House Bill 1155 be amended to read as follows:

Page 7, line 6, delete ":" and insert "**child molesting or an offense in another jurisdiction that is substantially similar to child molesting if the person was at least eighteen (18) years of age at the time the person committed the offense and the person:**

- (A) has a prior unrelated conviction for child molesting or an offense in another jurisdiction that is substantially similar to child molesting; or
- (B) is a sexually violent predator under IC 35-38-1-7.5;"

Page 7, delete lines 7 through 13.

Page 9, line 31, after "location" insert ", if applicable".

Page 10, between lines 9 and 10, begin a new paragraph and insert: "SECTION 5. IC 35-50-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time ~~he~~ **the person** has earned for any of the following:

- (1) A violation of one (1) or more rules of the department of correction.
- (2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.
- (3) A violation of one (1) or more rules or conditions of a community transition program.
- (4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.
- (5) **If the person is an offender (as defined in IC 5-2-12-4) and refuses to participate in a sex offender treatment**

**program specifically offered to the offender by the department of correction while the person is serving a period of incarceration with the department of correction.**

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, ~~he~~ **the person** may also be reassigned to Class II or Class III.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine his guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in section 4(c) of this chapter. The person may waive his right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored."

(Reference is to HB 1155 as printed January 27, 2006.)

FOLEY

Motion prevailed.

#### HOUSE MOTION (Amendment 1155-3)

Mr. Speaker: I move that House Bill 1155 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-2-12-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) Except as provided in subsections (b) and (c), an offender's duty to register under this chapter expires ~~ten (10)~~ **twenty (20)** years after the date the offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;
- (2) is placed in a community transition program;
- (3) is placed in a community corrections program;
- (4) is placed on parole; or
- (5) is placed on probation;

whichever occurs last.

(b) An offender who is found to be a sexually violent predator by a court under IC 35-38-1-7.5(b) is required to register for life.

(c) An offender who is convicted of at least one (1) sex and violent offense that the offender committed:

- (1) when the person was at least eighteen (18) years of age; and
- (2) against a victim who was less than twelve (12) years of age at the time of the crime;

is required to register for life.

(d) An offender who is convicted of at least one (1) sex and violent offense in which the offender:

- (1) proximately caused serious bodily injury or death to the victim;
- (2) used force or the threat of force against the victim or a member of the victim's family; or
- (3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

(e) An offender who is convicted of at least two (2) unrelated sex and violent offenses is required to register for life."

Page 10, line 13, delete "IC 35-50-6-1," and insert "**IC 5-2-12-13 and IC 35-50-6-1, both**".

Page 10, line 14, delete "applies" and insert "**apply**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1155 as printed January 27, 2006.)

GRUBB

Motion prevailed. The bill was ordered engrossed.

#### House Bill 1156

Representative Richardson called down House Bill 1156 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1156-3)

Mr. Speaker: I move that House Bill 1156 be amended to read as follows:

Page 11, delete lines 15 through 18.  
 Page 19, delete lines 27 through 39.  
 Renumber all SECTIONS consecutively.  
 (Reference is to HB 1156 as printed January 27, 2006.)

RICHARDSON

Motion prevailed.

HOUSE MOTION  
 (Amendment 1156-2)

Mr. Speaker: I move that House Bill 1156 be amended to read as follows:

Page 11, line 23, delete "thirty-four (34)" and insert "**thirty-five (35)**".

Page 12, line 4, reset in roman "eight (8)".

Page 12, line 4, delete "nine (9)".

Page 12, line 16, delete "seventeen (17)" and insert "**sixteen (16)**".

Page 12, line 19, delete "nineteen (19)" and insert "**twenty (20)**".

Page 12, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 10. IC 33-33-49-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Not more than thirty (30) days after taking the oath of office, the judges shall meet and designate ~~three (3)~~ **four (4)** of the judges as the executive committee for administrative purposes. The executive committee shall be selected by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken. If all vacancies cannot be filled by a two-thirds (2/3) vote, vacancies may be filled by such other method as provided by court rule. The executive committee is responsible for the operation and conduct of the court. A member of the executive committee shall serve in the capacity provided by rules adopted by the court under section 11 of this chapter. A member of the executive committee serves for a term of two (2) years beginning on the date of the member's election. **Except for the rotation of the presiding judge as provided in subsection (b),** any or all of the members elected to the executive committee may be reelected. Of the ~~three (3)~~ **four (4)** judges elected to the executive committee, not more than two (2) may be members of the same political party.

(b) One (1) of the ~~three (3)~~ **four (4)** judges elected to the executive committee shall be elected as presiding judge and ~~two (2)~~ **three (3)** of the ~~three (3)~~ **four (4)** judges elected to the executive committee shall be elected as associate presiding judges. **Beginning with the election of the executive committee in 2007, a presiding judge may not be elected from the same political party as the presiding judge who served the previous term.** Each judge who is a member of the executive committee has an equal vote in all matters pertaining to the business of the court when an action requires a majority vote. **If a tie vote occurs, the presiding judge shall cast the tiebreaking vote.** Any action taken by the executive committee may be overruled by a vote of two-thirds (2/3) of all the judges sitting at the time the vote is taken. The physical reassignment of a judge to a different courtroom requires a unanimous vote of the executive committee. The executive committee shall assign cases, offices, and courtrooms for trial judges or reassignment of newly filed cases in the interests of the speedy, economical, and uniform disposition of cases. All matters of trial dates, continuances, and subpoenas used for trial shall be determined by the trial judge in accordance with rules of the superior court. The executive committee shall perform other duties as determined by rules of the court.

(c) The court shall, by rules of the court, divide the work of the court into various divisions, including but not limited to the following:

- (1) Civil.
- (2) Criminal.
- (3) Probate.
- (4) Juvenile.

(d) The work of each division shall be allocated by the rules of the court.

(e) The judges shall be assigned to various divisions or rooms as provided by rules of the court. Whenever possible, an incumbent judge shall be allowed the option of remaining in a particular room or division. Whenever any action of the court is required, the judges of the court shall act in concert, by a vote under section 11 of this

chapter. The court shall keep appropriate records of rules, orders, and assignments of the court."

Page 12, line 28, delete "four (4)".

Page 12, line 29, delete "six (6)" and insert "four (4)".

Page 12, line 30, delete "three (3)" and insert "**two (2)**".

Page 20, line 2, delete "and" and insert ",".

Page 20, line 2, after "thirty-fourth" insert ", **and thirty-fifth**".

Page 20, line 15, delete "nineteen (19)" and insert "**twenty (20)**".

Page 20, line 16, delete "thirty-fifth and".

Page 20, line 16, delete "judges" and insert "**judge**".

Page 20, line 21, delete "nine (9)" and insert "**eight (8)**".

Page 20, line 25, delete "seventeen (17)" insert "**sixteen (16)**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1156 as printed January 27, 2006.)

RICHARDSON

Motion prevailed.

HOUSE MOTION  
 (Amendment 1156-1)

Mr. Speaker: I move that House Bill 1156 be amended to read as follows:

Page 9, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 3. IC 33-28-4-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 10. (a) The employer of a person who:**

**(1) is summoned to serve as a juror; and**

**(2) notifies the employer of the jury summons:**

**(A) within a reasonable time after receiving the jury summons; and**

**(B) before the person appears for jury duty;**

**may not subject the person to any adverse employment action as the result of the person's jury service.**

**(b) An employee may not be required or requested to use annual leave, vacation leave, or sick leave for time spent:**

**(1) responding to a summons for jury duty;**

**(2) participating in the jury selection process; or**

**(3) serving on a jury.**

**This subsection does not require an employer to provide annual leave, vacation leave, or sick leave to an employee who is not otherwise entitled to these benefits.**

**(c) If:**

**(1) a prospective juror works for an employer with ten (10) or fewer full-time employees (or their equivalent);**

**(2) another employee of the employer described in subdivision (1) is performing jury service; and**

**(3) the prospective juror or the employee performing jury service notifies the court that they both work for the same employer;**

**the court shall reschedule the prospective juror's jury service for a date that does not overlap with the jury service of the other employee already performing jury service."**

Page 10, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 19. IC 33-28-5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. (a) A person who appears for service as a petit or grand juror serves until the conclusion of the first trial in which the juror is sworn, regardless of the length of the trial or the manner in which the trial is disposed. A person who appears for service but is not selected and sworn as a juror completes the person's service at the end of one (1) day.

(b) A person who:

(1) serves as a juror under this chapter; or

(2) completes one (1) day of jury selection but is not chosen to serve as a juror;

may not be selected for another jury panel until all nonexempt persons on the master list have been called for jury duty.

**(c) The employer of a person who:**

**(1) is summoned to serve as a juror; and**

**(2) notifies the employer of the jury summons:**

**(A) within a reasonable time after receiving the jury summons; and**

**(B) before the person appears for jury duty;**

may not subject the person to any adverse employment action as the result of the person's jury service.

(d) An employee may not be required or requested to use annual leave, vacation leave, or sick leave for time spent:

- (1) responding to a summons for jury duty;
- (2) participating in the jury selection process; or
- (3) serving on a jury.

This subsection does not require an employer to provide annual leave, vacation leave, or sick leave to an employee who is not otherwise entitled to these benefits.

(e) If:

- (1) a prospective juror works for an employer with ten (10) or fewer full-time employees (or their equivalent);
- (2) another employee of the employer described in subdivision (1) is performing jury service; and
- (3) the prospective juror or the person performing jury service notifies the court that they both work for the same employer;

the court shall reschedule the prospective juror's jury service for a date that does not overlap with the jury service of the other employee."

Page 11, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 20. IC 33-28-6-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) The employer of a person who:

- (1) is summoned to serve as a juror; and
- (2) notifies the employer of the jury summons:
  - (A) within a reasonable period after receiving the jury summons; and
  - (B) before the person appears for jury duty;

may not subject the person to any adverse employment action as the result of the person's jury service.

(b) An employee may not be required or requested to use annual leave, vacation leave, or sick leave for time spent:

- (1) responding to a summons for jury duty;
- (2) participating in the jury selection process; or
- (3) serving on a jury.

This subsection does not require an employer to provide annual leave, vacation leave, or sick leave to an employee who is not otherwise entitled to these benefits.

(c) If:

- (1) a prospective juror works for an employer with ten (10) or fewer full-time employees (or their equivalent);
- (2) another employee of the employer described in subdivision (1) is performing jury service; and
- (3) the prospective juror or the employee performing jury service notifies the court that they both work for the same employer;

the court shall reschedule the prospective juror's jury service for a date that does not overlap with the jury service of the employee already performing jury service."

Renumber all SECTIONS consecutively.

(Reference is to HB 1156 as printed January 27, 2006.)

MAYS

Motion prevailed. The bill was ordered engrossed.

## House Bill 1158

Representative Richardson called down House Bill 1158 for second reading. The bill was read a second time by title.

### HOUSE MOTION (Amendment 1158-1)

Mr. Speaker: I move that House Bill 1158 be amended to read as follows:

Page 2, between lines 41 and 42, begin a new paragraph and insert: "SECTION 3. IC 33-35-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section applies after June 30, 2005.

(b) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The fees received by the controller

from the clerk shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

(c) If the party instituting an action or a proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee, **small claims garnishee service fee**, and the small claims service fee prescribed under IC 33-37-4-5 or IC 33-37-4-6.

(d) Money paid in advance for costs remaining unexpended at the time a civil action or proceeding is terminated, whether by reason of dismissal or otherwise, must be returned to the party or parties making payment. However, this section does not apply to civil actions or proceedings instituted by or on behalf of the state or any of the state's political subdivisions."

Page 3, line 5, strike "and".

Page 3, line 7, delete "." and insert "; and

**(C) if the party has named more than three (3) garnishees or garnishee defendants, a small claims garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant in excess of three (3)."**

Page 3, between lines 10 and 11, begin a new line block indented and insert:

**"(3) From any party adding a garnishee or garnishee defendant, a small claims garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant added to the action. However, a clerk may not collect a small claims garnishee service fee for the first three (3) garnishees named in the action."**

Page 3, line 11, after "fee" insert ",".

Page 3, line 11, strike "or".

Page 3, line 12, after "fee" insert ", or small claims garnishee service fee".

Page 3, line 13, after "fee" insert ",".

Page 3, line 14, strike "and".

Page 3, line 15, after "fee" insert ", and small claims garnishee service fee".

Page 4, between lines 13 and 14, begin a new line block indented and insert:

**"(3) From a party that has named more than three (3) garnishees or garnishee defendants, a garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant in excess of three (3).**

**(4) From a party adding a garnishee or garnishee defendant, a garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant added to the action. However, a clerk may not collect a garnishee service fee for the first three (3) garnishees or garnishee defendants named in the action."**

Page 4, between lines 15 and 16, begin a new paragraph and insert: "SECTION 7. IC 33-37-4-4, AS AMENDED BY P.L.176-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars (\$100) from a party filing a civil action. This subsection does not apply to the following civil actions:

- (1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
- (4) Proceedings in paternity under IC 31-14.
- (5) Proceedings in small claims court under IC 33-34.
- (6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A support and maintenance fee (IC 33-37-5-6).
- (3) A document storage fee (IC 33-37-5-20).
- (4) An automated record keeping fee (IC 33-37-5-21).
- (5) A public defense administration fee (IC 33-37-5-21.2).
- (6) A judicial insurance adjustment fee (IC 33-37-5-25).
- (7) A judicial salaries fee (IC 33-37-5-26).
- (8) A court administration fee (IC 33-37-5-27).

(9) A service fee (~~IC 33-37-5-28~~) (**IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)**).

**(10) A garnishee service fee (IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4)).**

SECTION 5. IC 33-37-7-2, AS AMENDED BY P.L.176-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

- (1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.
- (2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor **the following:**

**(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.**

**(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.**

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

- (1) The public defense administration fee collected under IC 33-37-5-21.2.
- (2) The judicial salaries fees collected under IC 33-37-5-26.
- (3) The DNA sample processing fees collected under IC 33-37-5-26.2.
- (4) The court administration fees collected under IC 33-37-5-27.

(j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(k) The proceeds of the service fee collected under ~~IC 33-37-5-28~~ **IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)** shall be distributed as follows:

- (1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.
- (2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

**(l) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:**

- (1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.**
- (2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.**

SECTION 9. IC 33-37-7-8, AS AMENDED BY P.L.176-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).
- (c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:
  - (1) IC 33-37-4-1(a) (criminal costs fees).
  - (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
  - (3) IC 33-37-4-4(a) (civil costs fees).
  - (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
  - (5) IC 33-37-5-17 (deferred prosecution fees).
- (d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:
  - (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
  - (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
  - (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
  - (4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
  - (5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).
- (e) The clerk of a city or town court shall distribute monthly to the county auditor the following:
  - (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
  - (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

- (f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the following:
  - (1) The late payment fees collected under IC 33-37-5-22.
  - (2) The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).
  - (3) The small claims garnishee service fee collected under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).**

The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

- (g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:
  - (1) The public defense administration fee collected under IC 33-37-5-21.2.
  - (2) The DNA sample processing fees collected under IC 33-37-5-26.2.
  - (3) The court administration fees collected under IC 33-37-5-27.
- (h) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.
- (i) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund seventy-five percent (75%) of the judicial salaries fee collected under IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five percent (25%) of the judicial salaries fee collected under IC 33-37-5-26 as the city or town share."

Renumber all SECTIONS consecutively.  
(Reference is to HB 1158 as printed January 24, 2006.)

RICHARDSON

Motion prevailed. The bill was ordered engrossed.

### House Bill 1190

Representative Stutzman called down House Bill 1190 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1220

Representative Reske called down House Bill 1220 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1227

Representative Budak called down House Bill 1227 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1347

Representative Messer called down House Bill 1347 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1347-6)

Mr. Speaker: I move that House Bill 1347 be amended to read as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 12.

Page 2, line 15, delete "The department may authorize a" and insert "**A**".

Page 2, line 16, delete "to" and insert "**may**".

Page 2, delete lines 35 through 36.

Page 2, line 37, delete "(C)" and insert "**(B)**".

Page 2, line 40, delete "department." and insert "**department; or (C) passed an examination that demonstrates the student is ready for college level work:**

**(i) administered by the state educational institution; and**

**(ii) approved by the department."**

Page 3, line 21, delete "As a part of the general".

Page 3, line 22, delete "education curriculum,".

Page 3, delete lines 40 through 41.

Page 3, line 42, delete "(C)" and insert "**(B)**".

Page 4, line 3, delete "department." and insert "**department; or (C) passed an examination that demonstrates the student is ready for college level work:**

**(i) administered by Ivy Tech; and**

**(ii) approved by the department."**

Page 6, line 19, delete "the school shall provide remediation programs to the".

Page 6, delete line 20.

Page 6, line 21, delete "student's career plan. The" and insert "**the**".

Page 6, delete lines 36 through 37.

Page 6, line 38, delete "2." and insert "**1.**".

Page 6, line 39, delete "associates degree" and insert "**associate degree,**".

Page 6, line 39, delete "or" and insert "**a**".

Page 6, line 39, after "baccalaureate" delete "degree" and insert "**degree, or a vocational certification**".

Page 7, line 1, delete "3." and insert "**2.**".

Page 7, line 3, delete "4." and insert "**3.**".

Page 7, line 7, delete "5." and insert "**4.**".

Page 7, line 8, after "12." insert "**School corporations and state educational institutions may collaborate to offer early college, dual credit, or dual enrollment programs that meet the educational objectives of the school corporation and are offered by the state educational institutions."**

Page 7, line 10, after "full-time" insert "**or part-time**".

Page 7, between lines 11 and 12, begin a new paragraph and insert:

"(c) A state educational institution that participates in an early college, a dual credit, or a dual enrollment program may, by agreement with a school corporation:

(1) ensure that the content and rigor of each course offered is adequate to warrant providing credit to a student as if the student took the course as a student at the state educational institution;

(2) set the criteria for the faculty member, instructor, or other individual responsible for teaching each course with the:

(A) state educational institution responsible for hiring the personnel to instruct dual credit courses taught by the state educational institution; and

(B) school corporation responsible for hiring personnel to instruct dual credit courses taught by the high school; and

(3) determine with the school corporation the terms and conditions under which:

(A) students may be admitted to the program while attending high school;

(B) the state educational institution will award credit, if any, for specified courses successfully completed by students through the school corporation; and

(C) the school corporation will award credit, if any, for specified courses successfully completed through the state educational institution."

Page 7, delete line 12.

Page 7, line 13, delete "educational institution for secondary credit, a" begin a new paragraph and insert:

"(d) A".

Page 7, line 16, delete "(d)" and insert "(e)".

Page 7, line 16, delete "must be" and insert "that are".

Page 7, line 24, delete "fields." and insert "fields;

are among those eligible for the program. If a student passes a course through the program that is part of an articulation agreement between the state educational institution offering the course and other state educational institutions, the course is eligible for transfer under the articulation agreement."

Page 7, delete lines 25 through 28.

Page 7, line 29, delete "(e)" and insert "(f)".

Page 7, delete lines 37 through 42, begin a new paragraph and insert:

"Sec. 5. A school corporation may, by agreement with an institution of higher education, offer counseling concerning early college, dual credit, or dual enrollment courses that the school corporation considers appropriate, including:

(1) notice of the courses and schedule;

(2) available post-secondary credit;

(3) responsibilities of the student;

(4) any tuition and other costs;

(5) the consequences of the failure to complete a course; and

(6) other matters concerning the program and opportunities presented by the program."

Page 8, delete lines 1 through 20.

Page 8, line 21, delete "9." and insert "6."

Page 8, delete lines 27 through 31.

Page 8, line 32, delete "(c)" and insert "(b)".

Page 8, line 38, delete "(d)" and insert "(c)".

Page 8, line 42, delete "an eligible" and insert "the state educational".

Page 9, delete lines 1 through 21.

Page 9, line 22, delete "13." and insert "7."

Page 9, delete lines 29 through 40.

Page 10, delete lines 12 through 42.

Page 11, delete lines 1 through 14.

Page 11, line 29, delete "(a)".

Page 11, line 30, delete ", or the chief administrative officer of a"

Page 11, delete line 31.

Page 11, line 32, delete "IC 20-19-2-8, shall" and insert "may".

Page 11, run in lines 30 through 32.

Page 11, line 33, delete "attends an" and insert "attends any".

Page 11, line 33, delete ". An" and insert ". Any".

Page 11, line 34, after "activity" insert "and nonclassroom activity".

Page 12, delete lines 2 through 3.

Page 12, line 4, delete "(6)" and insert "(5)".

Page 12, between lines 5 and 6, begin a new line block indented and insert:

"(6) Is approved in writing by the school principal."

Page 12, delete lines 6 through 13.

Page 14, line 15, delete "completion" and insert "fast track to college".

Page 14, delete lines 33 through 34.

Page 14, line 35, delete "(C)" and insert "(B)".

Page 14, line 39, delete "IC 20-19-3-1." and insert "IC 20-19-3-1; or

(C) passed an examination that demonstrates the student is ready for college level work:

(i) administered by Vincennes University; and

(ii) approved by the department of education."

Renumber all SECTIONS consecutively.

(Reference is to HB 1347 as printed January 26, 2006.)

MESSER

Motion prevailed.

#### HOUSE MOTION (Amendment 1347-4)

Mr. Speaker: I move that House Bill 1347 be amended to read as follows:

Page 11, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 14. IC 20-33-2-9, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [JULY 1, 2006]: Sec. 9. (a) The governing body of each school corporation shall designate the appropriate employees of the school corporation to conduct the exit interviews for students described in section 6(a)(3) of this chapter. Each exit interview must be personally attended by:

(1) the student's parent;

(2) the student;

(3) each designated appropriate school employee; and

(4) the student's principal.

(b) A student who is at least sixteen (16) years of age but less than eighteen (18) years of age is bound by the requirements of compulsory school attendance and may not withdraw from school before graduation unless:

(1) the student, the student's parent, and the principal agree to the withdrawal; and

(2) at the exit interview, the student provides written acknowledgment of the withdrawal that meets the requirements of subsection (c) and the:

(A) student's parent; and

(B) school principal;

each provide written consent for the student to withdraw from school.

(c) A written acknowledgment of withdrawal under subsection (b) must include a statement that the student and the student's parent understand that withdrawing from school is likely to:

(1) reduce the student's future earnings; and

(2) increase the student's likelihood of being unemployed in the future."

Page 15, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 19. [EFFECTIVE UPON PASSAGE] (a) The department of education shall develop guidelines for a school corporation to follow in implementing IC 20-33-2-9(c), as added by this act.

(b) This section expires December 31, 2006."

Renumber all SECTIONS consecutively.

(Reference is to HB 1347 as printed January 2, 2006.)

TURNER

Motion prevailed.

HOUSE MOTION  
(Amendment 1347-5)

Mr. Speaker: I move that House Bill 1347 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-24-2-1, AS AMENDED BY P.L.1-2005, SECTION 106, AND AS AMENDED BY P.L.242-2005, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) A driver's license or a learner's permit may not be issued to an individual less than eighteen (18) years of age who meets any of the following conditions:

- (1) Is a habitual truant under IC 20-33-2-11.
- (2) Is under at least a second suspension from school for the school year under IC 20-33-8-14 or IC 20-33-8-15.
- (3) Is under an expulsion from school under IC 20-33-8-14, IC 20-33-8-15, or IC 20-33-8-16.
- ~~(4) Has withdrawn from school, for a reason other than financial hardship and the withdrawal was reported under IC 20-8-1-3-24(a) IC 20-33-2-21(a) before graduating.~~
- ~~(4) Is considered a dropout under IC 20-33-2-28.5.~~

(b) At least five (5) days before holding an exit interview under ~~IC 20-33-2-6(a)(3), IC 20-33-2-28.5~~, the school corporation shall give notice by certified mail or personal delivery to the student, the student's parent, or the student's guardian ~~of the following:~~

- ~~(1) That the exit interview will include a hearing to determine if the reason for the student's withdrawal is financial hardship.~~
- ~~(2) If the principal determines that the reason for the student's withdrawal is not financial hardship:~~

- ~~(A) the student and the student's parent or guardian will receive a copy of the determination; and~~
- ~~(B) the student's name will be submitted to the bureau for the bureau's use in denying or invalidating a driver's license or learner's permit under this section.~~

~~that the student's failure to attend an exit interview under IC 20-33-2-28.5 or return to school if the student does not meet the requirements to withdraw from school under IC 20-33-2-28.5 will result in the revocation or denial of the student's:~~

- ~~(1) driver's license or learner's permit; and~~
- ~~(2) employment certificate.~~

(c) A driver's license may not be issued to a person less than eighteen (18) years of age who has failed to meet the educational proficiency standard tested in the graduation examination under IC 20-32-4."

Page 10, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 12. IC 20-32-4-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) Notwithstanding IC 9-24 concerning the minimum standards for qualifying for the issuance of a driver's license, a student who:

- (1) is less than eighteen (18) years of age; and
- (2) has failed to meet the educational proficiency standard tested in the graduation examination under this chapter;

may not be issued a driver's license to operate a motor vehicle or motorcycle under IC 9-24 until the student is at least eighteen (18) years of age.

(b) After a high school receives score reports for the graduation examination, the principal of the high school shall submit to the governing body the name of each student who:

- (1) is ineligible to receive a driver's license under this section; or
- (2) has become eligible to receive a driver's license after meeting the educational proficiency standard in a second or subsequent graduation examination.

(c) After receiving a report under subsection (b), the governing body shall submit to the bureau of motor vehicles the pertinent information concerning a student's eligibility to receive a driver's license under subsection (a)."

Renumber all SECTIONS consecutively.

(Reference is to HB 1347 as printed January 26, 2006.)

TURNER

After discussion, Representative Turner withdrew the motion.

There being no further amendments, the bill was ordered engrossed.

### House Bill 1349

Representative Ulmer called down House Bill 1349 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1349-12)

Mr. Speaker: I move that House Bill 1349 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 30.

Page 3, line 37, after "game mammals," insert "elk, "

Page 3, line 39, delete "A cervidae livestock operation licensed under IC 14-22-20.5" and insert "Except as provided in section 5 of this chapter, game mammals, elk, and furbearing mammals held under this chapter may not be hunted or harvested for sporting purposes."

(c) After July 1, 2013, hunting and harvesting for sporting purposes of game mammals, elk, and furbearing mammals held under a license issued under this chapter are prohibited.

SECTION 2. IC 14-22-20-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A person who:

- (1) possesses a license issued under this chapter;
- (2) provides documentation to the department that the person has allowed deer or elk hunting under a license issued under this chapter in 2003, 2004, or 2005; and
- (3) complies with the requirements set forth in subsection (c);

is entitled to continue to allow hunting and harvesting of deer and elk for sporting purposes under this section, subject to subsection (c).

(b) The department shall provide a person who meets the conditions set forth in subsection (a) with a letter certifying that the person is authorized to operate a game breeder's licensed hunting facility under this section.

(c) A person who operates a game breeder's licensed hunting facility under this section must comply with the following requirements:

- (1) A hunting stand may not be located closer than seventy-five (75) yards from the boundary fence.
- (2) A deer or an elk must be released into the hunting area at least ten (10) days before it is hunted. Hunting of other deer and elk is not allowed in the hunting area during this period.
- (3) The number of hunters in the hunting area at any time may not exceed one (1) hunter per twenty (20) acres.
- (4) Any law or rule concerning the hunting of whitetail deer concerning weapon limitations applies to the hunting of any animal on a licensed hunting facility.
- (5) The licensed hunting facility must comply with all rules of the board of animal health concerning deer and elk, including rules concerning chronic wasting disease (CWD).
- (6) The licensed hunting facility may not sell a specific deer or elk to the hunter. However, the licensed hunting facility may charge either:
  - (A) a basic hunting fee; or
  - (B) a fee based upon the antler size of the deer or elk taken by the hunter.

(7) Hunting is prohibited in the area within one hundred fifty (150) yards of an artificial feeding site.

(8) The licensed hunting facility must maintain a hunting area that consists of at least eighty (80) contiguous acres and that is surrounded by a boundary fence at least eight (8) feet in height.

(9) The operator of a licensed hunting facility shall pay the department the following fees for each deer or elk harvested on the licensed hunting facility:

- (A) Two hundred fifty dollars (\$250) per buck.
- (B) Fifty dollars (\$50) per doe.



(10) The operator of a licensed hunting facility must maintain daily records concerning the following:

(A) The number of deer and elk released into the hunting area.

(B) The number of hunters.

(C) The number of deer and elk harvested.

(11) The licensed hunting facility must allow the department, at any time, to inspect the following:

(A) The daily records required under subdivision (10).

(B) The deer and elk.

(C) The hunting area.

(12) Before July 1, 2011, a person who operates a licensed hunting facility under this section shall submit a plan to the department that outlines how all deer and elk will be harvested or removed from the licensed hunting facility.

(d) Except for whitetail deer, a deer or elk taken on a game breeder's licensed hunting facility under this section is not subject to:

(1) the bag, sex, and size limits established under IC 14-22-2-6(a)(2); or

(2) hunting license requirements.

(e) Except for whitetail deer, a person may take deer and elk from a game breeder's licensed hunting facility under this section only during September, October, November, December, January, February, March, and April.

(f) Deer and elk may not be released into a game breeder's licensed hunting facility to which this section applies after July 1, 2011.

(g) This section expires July 1, 2013."

Page 3, delete lines 40 through 42.

Delete pages 4 through 8.

Renumber all SECTIONS consecutively.

(Reference is to HB 1349 as printed January 20, 2006.)

ULMER

On the motion of Representative Crooks, the previous question was called. Motion prevailed.

#### HOUSE MOTION (Amendment 1349-2)

Mr. Speaker: I move that House Bill 1349 be amended to read as follows:

Page 3, between lines 30 and 31, begin a new paragraph and insert: "SECTION 5. IC 14-22-12-7, AS AMENDED BY P.L.225-2005, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) ~~Before July 1, 2005~~, The director may issue to residents of Indiana lifetime licenses to hunt, fish, or trap. Subject to ~~subsection subsections~~ (b) and (f), the following license fees shall be charged:

(1) Lifetime basic fishing license, twenty (20) times the fee charged for a resident yearly license to fish. This license replaces the resident yearly license to fish.

(2) Lifetime basic hunting license, twenty (20) times the fee charged for a resident yearly license to hunt. This license replaces the resident yearly license to hunt.

(3) Lifetime comprehensive fishing license, thirty (30) times the fee charged for a resident yearly license to fish. This license replaces the resident yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species.

(4) Lifetime comprehensive hunting license, sixty (60) times the fee charged for a resident yearly license to hunt. This license replaces the resident yearly license to hunt and all other yearly licenses, stamps, or permits to hunt for a specific species or by a specific means.

(5) Lifetime comprehensive hunting and fishing license, the fee charged under subdivisions (3) and (4) less ten percent (10%). This license replaces the following:

(A) The resident yearly license to hunt.

(B) All other yearly licenses, stamps, or permits to hunt for a specific species or by a specific means.

(C) The resident yearly license to fish.

(D) All other yearly licenses, stamps, or permits to fish for a specific species.

(6) Lifetime trapping license, twenty (20) times the fee charged for a resident yearly license to trap. This license replaces the resident yearly license to trap.

(b) This subsection applies only to individuals who are at least fifty (50) years of age. The license fees under subsection (a) shall be reduced by the amount determined under STEP THREE of the following formula:

STEP ONE: Subtract forty-nine (49) from the resident applicant's age in years.

STEP TWO: Multiply the difference determined under STEP ONE by two and one-half percent (2.5%).

STEP THREE: Multiply the percentage determined under STEP TWO by the amount of the appropriate fee under subsection (a).

(c) Each lifetime license:

(1) is nontransferable;

(2) expires on the death of the person to whom the license was issued; and

(3) may be suspended or revoked for the same causes and according to the same procedures that a resident yearly license to hunt, fish, or trap, as appropriate, may be suspended or revoked.

(d) No part of a lifetime hunting, fishing, or trapping license is refundable. However, the holder of:

(1) a basic license to hunt or fish may be given credit for the current cost of such a license when purchasing a comprehensive license to hunt or fish or hunt and fish; and

(2) a comprehensive license to hunt or fish may be given credit for the current cost of such a license when purchasing a lifetime comprehensive license to hunt and fish.

(e) All money received under this section shall be deposited in the lifetime hunting, fishing, and trapping license trust fund established by IC 14-22-4.

(f) The director shall issue a lifetime hunting, fishing, and trapping license without charge to an individual who has applied for a lifetime hunting, fishing, and trapping license and who:

(1) is a resident of Indiana; and

(2) has served in and received an honorable discharge from the armed forces of the United States (as defined in IC 5-9-4-3)."

Renumber all SECTIONS consecutively.

(Reference is to HB 1349 as printed January 20, 2006.)

GOODIN

Upon request of Representatives Goodin and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 126: yeas 93, nays 3. Motion prevailed.

#### HOUSE MOTION (Amendment 1349-7)

Mr. Speaker: I move that House Bill 1349 be amended to read as follows:

Page 3, between lines 30 and 31, begin a new paragraph and insert: "SECTION 5. IC 14-22-6-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. The department may not release captive raised game birds on state property to be hunted within thirty (30) days after the game birds are released."

Renumber all SECTIONS consecutively.

(Reference is to HB 1349 as printed January 20, 2006.)

WOLKINS

Representative Ulmer rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 8:30 p.m. with the Speaker in the Chair.

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 11, 18, 22, 27, 33, 36, 37, 54, 56, 57, 58, 71, 78, 81, 83, 85, 89, 100, 106, 127, 132, 143, 145, and 370 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

## HOUSE BILLS ON SECOND READING

## House Bill 1381

Representative Behning called down House Bill 1381 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1381-1)

Mr. Speaker: I move that House Bill 1381 be amended to read as follows:

Page 6, between lines 41 and 42, begin a new paragraph and insert: **"Sec. 31. This chapter applies only to taxable years ending before January 1, 2011."**

(Reference is to HB 1381 as printed January 27, 2006.)

DAY

Motion prevailed.

HOUSE MOTION  
(Amendment 1381-3)

Mr. Speaker: I move that House Bill 1381 be amended to read as follows:

Page 2, line 8, delete "and".

Page 2, line 11, delete "." and insert "; and".

Page 2, between lines 11 and 12, begin a new line block indented and insert:

**"(4) is not provided a free, full day kindergarten program at the assigned school in the dependent's school corporation of legal settlement."**

Page 2, delete line 27.

Page 2, run in lines 26 and 28.

Page 4, line 30, after "." insert **"The qualified individual must notify the school of choice of the individual's intent to participate in the tax credit program when enrolling the qualified student into a kindergarten program."**

Page 6, between lines 41 and 42, begin a new paragraph and insert: **"Sec. 31. A school of choice may not charge a qualified individual any tuition or fees beyond the value of the credit granted under this chapter."**

**Sec. 32. A school of choice may use funds from sources other than the qualified individual to supplement the value of the credit."**

(Reference is to HB 1381 as printed January 27, 2006.)

BEHNING

Motion prevailed.

HOUSE MOTION  
(Amendment 1381-4)

Mr. Speaker: I move that House Bill 1381 be amended to read as follows:

Page 3, line 32, delete "determined under the rules" and insert **"proportional to the lesser of the part of the school year (as defined in IC 20-18-2-17):"**

**(i) for which the qualified individual pays or incurs a tuition expense, if the qualified individual does not pay or incur a tuition expense in the qualified individual's taxable year for an entire school year (as defined in IC 20-18-2-17); or**

**(ii) for which a qualified dependent receives educational services from a school of choice for kindergarten."**

Page 3, delete lines 33 through 42.

Page 5, line 41, delete "." and insert **"of education."**

**(5) The part of a school year (as defined in IC 20-18-2-17) for which the school of choice provided educational services for kindergarten to the qualified dependent."**

Page 6, between lines 41 and 42, begin a new paragraph and insert:

**"Sec. 31. If an adjusted kindergarten ADM count under IC 21-3-1.6-1.1 indicates that a qualified dependent who originally enrolled in kindergarten in a school of choice and was not counted in the current ADM of a school corporation or charter school on the original ADM count date for a year has reenrolled in the same school year in kindergarten in:**

**(1) the attendance area of the school corporation where the qualified dependent has legal settlement; or**

**(2) a charter school;**

**and is counted in the current ADM of the school corporation or charter school on the adjusted kindergarten ADM count date, the department shall make state distributions to the school corporation or charter school as if the qualified dependent had been included in the count of eligible pupils on the original ADM count date.**

SECTION 2. IC 21-3-1.6-1.1, AS AMENDED BY P.L.1-2005, SECTION 170, AND AS AMENDED BY P.L.246, SECTION 191, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 1.1. As used in this chapter:

(a) "School corporation" means any local public school corporation established under Indiana law. Except as otherwise indicated, the term includes a charter school.

(b) "School year" means a year beginning July 1 and ending the next succeeding June 30.

(c) "State distribution" due a school corporation means the amount of state funds to be distributed to a school corporation in any calendar year under this chapter.

(d) "Average daily membership" or "ADM" of a school corporation means the number of eligible pupils enrolled in the school corporation or in a transferee corporation on a day to be fixed annually by the Indiana state board of education and *beginning in the school year that ends in the 2005 calendar year*, as subsequently adjusted not later than January 30 under the rules adopted by the state board of education. The initial day of the count shall fall within the first thirty (30) days of the school term. If, however, extreme patterns of student in-migration, illness, natural disaster, or other unusual conditions in a particular school corporation's enrollment on either the day fixed by the Indiana state board of education or on the subsequent adjustment date, cause the enrollment to be unrepresentative of the school corporation's enrollment throughout a school year, the Indiana state board of education may designate another day for determining the school corporation's enrollment. The Indiana state board of education shall monitor changes that occur after the fall count, in the number of students enrolled in programs for children with disabilities **and in the number of students enrolled in kindergarten**, and shall, before December 2 of that same year **make an adjusted count of students enrolled in programs for children with disabilities and an adjusted count of the students enrolled in kindergarten** and, *beginning in the 2004 calendar year*, before April 2 of the following calendar year, make an adjusted count of students enrolled in programs for children with disabilities. The superintendent of public instruction shall certify the December adjusted count to the budget committee before February 5 of the following year and the April adjusted count not later than May 31 immediately after the date of the April adjusted count. In determining the ADM, each kindergarten pupil shall be counted as one-half (½) pupil. Where a school corporation commences kindergarten in a school year, the ADM of the current and prior calendar years shall be adjusted to reflect the enrollment of the kindergarten pupils. In determining the ADM, each pupil enrolled in a public school and a nonpublic school is to be counted on a full-time equivalency basis as provided in section 1.2 of this chapter.

(e) "Additional count" of a school corporation, or comparable language, means the aggregate of the additional counts of the school corporation for certain pupils as set out in section 3 of this chapter (repealed) and as determined at the times for calculating ADM. "Current additional count" means the initial computed additional count of the school corporation for the school year ending in the calendar year. "Prior year additional count" of a school corporation used in computing its state distribution in a calendar year means the initial computed additional count of the school corporation for the school year ending in the preceding calendar year.

(f) For purposes of this subsection, "school corporation" does not include a charter school. "Adjusted assessed valuation" of any school corporation used in computing state distribution for a calendar year means the assessed valuation in the school corporation, adjusted as provided in IC 6-1.1-34. The amount of the valuation shall also be adjusted downward by the department of local government finance to the extent it consists of real or personal property owned by a railroad or other corporation under the jurisdiction of a federal court under the federal bankruptcy laws (11 U.S.C. 101 et seq.) if as a result of the corporation being involved in a bankruptcy proceeding the corporation is delinquent in payment of its Indiana real and personal property taxes for the year to which the valuation applies. If the railroad or other corporation in some subsequent calendar year makes payment of the delinquent taxes, then the state superintendent of public instruction shall prescribe adjustments in the distributions of state funds pursuant to this chapter as are thereafter to become due to a school corporation affected by the delinquency as will ensure that the school corporation will not have been unjustly enriched under the provisions of P.L.382-1987(ss). The amount of the valuation shall also be adjusted downward by the department of local government finance to the extent it consists of real or personal property described in IC 6-1.1-17-0.5(b).

(g) "General fund" means a fund established under IC 21-2-11-2.

(h) "Teacher" means every person who is required as a condition of employment by a school corporation to hold a teacher's license issued or recognized by the state, except substitutes and any person paid entirely from federal funds.

(i) For purposes of this subsection, "school corporation" does not include a charter school. "Teacher ratio" of a school corporation used in computing state distribution in any calendar year means the ratio assigned to the school corporation pursuant to section 2 of this chapter.

(j) "Eligible pupil" means a pupil enrolled in a school corporation if:

(1) the school corporation has the responsibility to educate the pupil in its public schools without the payment of tuition;

(2) subject to subdivision (5), the school corporation has the responsibility to pay transfer tuition under ~~IC 20-8.1-6.1~~, IC 20-8.1-6.1 (before its repeal) or IC 20-26-11, because the pupil is transferred for education to another school corporation (the "transferee corporation");

(3) the pupil is enrolled in a school corporation as a transfer student under ~~IC 20-8.1-6.1~~, IC 20-8.1-6.1 (before its repeal) or IC 20-26-11-6 or entitled to be counted for ADM or additional count purposes as a resident of the school corporation when attending its schools under any other applicable law or regulation;

(4) the state is responsible for the payment of transfer tuition to the school corporation for the pupil under ~~IC 20-8.1-6.1~~, IC 20-8.1-6.1 (before its repeal) or IC 20-26-11; or

(5) all of the following apply:

(A) The school corporation is a transferee corporation.

(B) The pupil does not qualify as a qualified pupil in the transferee corporation under subdivision (3) or (4).

(C) The transferee corporation's attendance area includes a state licensed private or public health care facility, child care facility, or foster family home where the pupil was placed:

(i) by or with the consent of the division of family and children;

(ii) by a court order;

(iii) by a child placing agency licensed by the division of family and children; or

(iv) by a parent or guardian under ~~IC 20-8.1-6.1~~, IC 20-8.1-6.1 (before its repeal) or IC 20-26-11-8.

For purposes of IC 21-3-12, the term includes a student enrolled in a charter school.

(k) "General fund budget" of a school corporation means the amount of the budget approved for a given year by the department of local government finance and used by the department of local government finance in certifying a school corporation's general fund tax levy and tax rate for the school corporation's general fund as provided for in IC 21-2-11. The term does not apply to a charter school.

(t) "At risk index" means the following:

(1) For a school corporation that is not a charter school, the sum of:

(A) the product of sixteen-hundredths (0.16) multiplied by the percentage of families in the school corporation with children who are less than eighteen (18) years of age and who have a family income below the federal income poverty level (as defined in IC 12-15-2-1);

(B) the product of four-tenths (0.4) multiplied by the percentage of families in the school corporation with a single parent; and

(C) the product of forty-four hundredths (0.44) multiplied by the percentage of the population in the school corporation who are at least twenty (20) years of age with less than a twelfth grade education.

The data to be used in making the calculations under this subdivision must be the data from the 2000 federal decennial census.

(2) For a charter school, the index determined under subdivision (1) for the school corporation in which the charter school is located.

(m) (l) "ADM of the previous year" or "ADM of the prior year" used in computing a state distribution in a calendar year means the initial computed ADM for the school year ending in the preceding calendar year.

(n) (m) "Current ADM" used in computing a state distribution in a calendar year means the initial computed ADM for the school year ending in the calendar year."

Renumber all SECTIONS consecutively.

(Reference is to HB 1381 as printed January 27, 2006.)

V. SMITH

Motion failed. The bill was ordered engrossed.

## House Bill 1383

Representative Turner called down House Bill 1383 for second reading. The bill was read a second time by title.

### HOUSE MOTION (Amendment 1383-2)

Mr. Speaker: I move that House Bill 1383 be amended to read as follows:

Page 2, line 4, after "who" insert ":

(1) "

Page 2, line 4, after "States" insert ";

Page 2, line 4, delete "in violation of federal" and insert:

"(2) is not a citizen or national of the United States; and".

Page 2, line 5, delete "immigration laws." and insert:

"(3) is not a qualified alien as defined in 8 U.S.C. 1641(b)."

Page 2, between lines 9 and 10, begin a new paragraph and insert:

"Sec. 3. As used in this chapter, "public assistance" means benefits, assistance, or coverage provided by any of the following:

(1) Office of the secretary of family and social services.

(2) Department of child services.

(3) Department of health.

(4) A township trustee providing township assistance under IC 12-20."

Page 2, line 10, delete "Sec. 3." and insert "Sec. 4."

Page 2, line 14, delete "Sec. 4." and insert "Sec. 5."

Page 2, line 38, delete "Sec. 5." and insert "Sec. 6."

Page 3, line 1, delete "Sec. 6." and insert "Sec. 7."

Page 3, between lines 22 and 23, begin a new paragraph and insert:

"(d) This section shall not be construed to prohibit an illegal alien from receiving charity care (as defined in IC 16-18-2-52.5)."

Page 3, line 23, delete "Sec. 7." and insert "Sec. 8."

Page 3, line 33, delete "Sec. 8." and insert "Sec. 9."

Page 3, line 40, delete "Sec. 9." and insert "Sec. 10."

(Reference is to HB 1383 as printed January 25, 2006.)

TURNER

Motion prevailed.

HOUSE MOTION  
(Amendment 1383-1)

Mr. Speaker: I move that House Bill 1383 be amended to read as follows:

Page 3, between lines 41 and 42, begin a new paragraph and insert:  
"SECTION 5. IC 22-4-18-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006] [EFFECTIVE JULY 1, 2006]: (a) **Each employer within Indiana shall verify to the department by October 1, 2006, in the manner prescribed by the department, that each employee of the employer is a legal resident of the United States.**

(b) **Each employer has an ongoing duty to verify to the department within five (5) days of the hire of a new employee, or upon the hire of an employee who formerly had been in the employ of the employer, that the employee is a legal resident of the United States.**

(C) **An employer that:**

- (1) **fails to notify the department of the verification requirements of subsection (a) or (b); or**
- (2) **falsifies a verification requirement under subsection (a) or (b);**

**is subject to a civil penalty equal to the total payroll for the employer for the calendar month previous to the violation. Civil penalties collected under this section shall be deposited in the state general fund."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1383 as printed January 25, 2006.)

AGUILERA

Upon request of Representatives Aguilera and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 127: yeas 55, nays 43. Motion prevailed. The bill was ordered engrossed.

### House Bill 1396

Representative Whetstone called down House Bill 1396 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1396-5)

Mr. Speaker: I move that House Bill 1396 be amended to read as follows:

Page 5, between lines 16 and 17, begin a new paragraph and insert:  
"SECTION 3. IC 4-31-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.5. "Account wagering" refers to a form of pari-mutuel wagering in which an individual may deposit money in an account to pay for the account holder's pari-mutuel wagering on horse racing.**

SECTION 4. IC 4-31-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) A person holding a permit to conduct a horse racing meeting or a license to operate a satellite facility may provide a place in the racing meeting grounds or enclosure or the satellite facility at which the person may conduct and supervise the pari-mutuel system of wagering by patrons of legal age on the horse races conducted or simulcast by the person. **Except as provided in subsection (c), the person may not permit or use:**

- (1) **another place other than that provided and designated by the person; or**
- (2) **another method or system of betting or wagering.**

(b) **Except as provided in section 7 of this chapter and IC 4-31-5.5, the pari-mutuel system of wagering may not be conducted on any races except the races at the racetrack, grounds, or enclosure for which the person holds a permit.**

(c) **Account wagering is authorized by this article. An account wager may be made:**

- (1) **in person;**
- (2) **by telephone;**
- (3) **via a computer network; or**
- (4) **by other electronic media.**

**The commission may adopt rules and prescribe the conditions under which account wagering may be conducted under this subsection."**

Page 40, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 16. IC 35-45-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The provisions of this chapter do not apply to **either of the following:**

(1) **Pari-mutuel wagering conducted at racetrack locations or satellite facilities licensed for pari-mutuel wagering under IC 4-31.**

(2) **Account wagering (as defined in IC 4-31-2-1.5) conducted under IC 4-31-7-1(c)."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1396 as printed January 24, 2006.)

MURPHY

Representative Pelath rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

HOUSE MOTION  
(Amendment 1396-4)

Mr. Speaker: I move that House Bill 1396 be amended to read as follows:

Page 7, line 34, after "8." insert "(a)".

Page 7, line 34, after "means a" delete "political" and insert "**party**".

Page 7, between lines 39 and 40, begin a new paragraph and insert:  
"**(b) Except as provided in subsection (c), the term does not include a candidate's committee (as defined in IC 3-5-2-7).**

**(c) For purposes of IC 4-32.2-4-8 and IC 4-32.2-4-17, the term includes a candidate's committee (as defined in IC 3-5-2-7)."**

Page 19, between lines 28 and 29, begin a new paragraph and insert:

"**Sec. 17. (a) With respect to any action authorized by this section, a candidate's committee (as defined in IC 3-5-2-7) is considered a bona fide political organization.**

**(b) A candidate's committee may apply for a license under section 8 of this chapter to conduct a raffle event. A candidate's committee may not conduct any other kind of allowable event.**

**(c) The following are subject to this article:**

**(1) A candidate's committee that applies for a license under section 8 of this chapter.**

**(2) A raffle event conducted by a candidate's committee."**

(Reference is to HB 1396 as printed January 24, 2006.)

WHETSTONE

Motion prevailed.

HOUSE MOTION  
(Amendment 1396-2)

Mr. Speaker: I move that House Bill 1396 be amended to read as follows:

Page 9, line 36, delete "corporation" and insert "**incorporation**".

Page 12, between lines 24 and 25, begin a new paragraph and insert:

"**(c) The commission may not adopt a rule under IC 4-22-2 requiring a qualified organization to use a minimum percentage of the qualified organization's gross receipts from allowable events and related activities for the lawful purposes of the qualified organization."**

Page 20, between lines 8 and 9, begin a new line block indented and insert:

**"(4) An amount equal to the advertising expenses incurred by the qualified organization to promote the allowable event."**

(Reference is to HB 1396 as printed January 24, 2006.)

WHETSTONE

Motion prevailed.

HOUSE MOTION  
(Amendment 1396-3)

Mr. Speaker: I move that House Bill 1396 be amended to read as follows:

Page 22, line 17, delete "A" and insert "**(a) Except as provided in subsection (b), a**".

Page 22, between lines 19 and 20, begin a new paragraph and insert:

**"(b) A qualified organization may allow an individual who is not a member of the qualified organization to participate in an allowable event as a worker if:**

**(1) the individual is a member of another qualified organization; and**

**(2) the individual's participation is approved by the commission.**

**A qualified organization may apply to the commission on a form prescribed by the commission for approval of the participation of a nonmember under this subsection. A qualified organization may share the proceeds of an allowable event with the qualified organization in which a worker participating in the allowable event under this subsection is a member. The tasks that will be performed by an individual participating in an allowable event under this subsection and the amounts shared with the individual's qualified organization must be described in the application and approved by the commission.**

**(c) For purposes of:**

**(1) the licensing requirements of this article; and**

**(2) section 9 of this chapter;**

**a qualified organization that receives a share of the proceeds of an allowable event described in subsection (b) is not considered to be conducting an allowable event."**

(Reference is to HB 1396 as printed January 24, 2006.)

YOUNT

Motion prevailed. The bill was ordered engrossed.

### House Bill 1415

Representative Mays called down House Bill 1415 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1415-1)

Mr. Speaker: I move that House Bill 1415 be amended to read as follows:

Page 1, line 8, delete ":".

Page 1, delete lines 9 through 10.

Page 1, line 11, delete "(3) other" and insert "a".

Page 1, run in lines 8 and 11.

Page 2, line 2, delete "other".

Page 2, line 2, delete "not listed in subsection".

Page 2, line 3, delete "(a)".

Page 2, after line 3, begin a new paragraph and insert:

**"SECTION 3. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the interim study committee on caseworker safety established by this SECTION.**

**(b) There is established the interim study committee on caseworker safety. The committee shall study issues related to:**

**(1) personal safety of; and**

**(2) safety training for;**

**caseworkers of the department of child services.**

**(c) The committee shall operate under the policies governing study committees adopted by the legislative council.**

**(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.**

**(e) This SECTION expires January 1, 2008.**

**SECTION 4. An emergency is declared for this act."**

Re-number all SECTIONS consecutively.

(Reference is to HB 1415 as printed January 27, 2006.)

FOLEY

Motion failed. The bill was ordered engrossed.

### OTHER BUSINESS ON THE SPEAKER'S TABLE

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Wednesday, February 1, 2006 at 9:00 a.m.

KOCH

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Klinker be added as coauthor of House Bill 1025.

J. SMITH

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representatives Buell and Crawford be added as coauthors of House Bill 1156.

RICHARDSON

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Behning be added as coauthor of House Bill 1213.

NOE

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Porter be added as coauthor of House Bill 1227.

BUDAK

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representatives Lehe and Torr be added as coauthors of House Bill 1267.

BORROR

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representatives T. Harris and Noe be added as coauthors of House Bill 1312.

BEHNING

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Reske be removed as coauthor of House Bill 1358.

BEHNING

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representatives Pelath and Kuzman be added as coauthors of House Bill 1396.

WHETSTONE

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Noe be added as cosponsor of Engrossed Senate Bill 60.

BEHNING

Motion prevailed.

On the motion of Representative Micon, the House adjourned at 10:10 p.m., this thirtieth-first day of January, 2006, until Wednesday, February 1, 2006, at 9:00 a.m.

BRIAN C. BOSMA

Speaker of the House of Representatives

M. CAROLINE SPOTTS

Principal Clerk of the House of Representatives